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Letter dated 1 October 2009 from the Permanent Representative of Nicaragua to the United Nations addressed to the Chair of the Special Committee

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Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples

British Virgin Islands

Working paper prepared by the Secretariat

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I. General

1. The British Virgin Islands* is a Non-Self-Governing Territory administered by the United Kingdom of Great Britain and Northern Ireland. The Territory is located about 100 kilometres east of Puerto Rico and 25 kilometres from the United States Virgin Islands. The Territory comprises an area of 153 square kilometres, a group of some 50 islands, islets and cays that form an archipelago with the United States Virgin Islands, scattered over some 3,445 square kilometres of sea. Twenty of the islands are inhabited. The capital city, Road Town, is located on the largest island, Tortola. The other major islands are Virgin Gorda, Anegada and Jost Van Dyke. For 2009, the population of the Territory was estimated at approximately 24,000 persons.[1]

II. Constitutional, political and legal issues

2. The basis of the relationship between the United Kingdom Government and its Non-Self-Governing Territories is set out in a White Paper, entitled "Partnership for Progress and Prosperity: Britain and the Overseas Territories", published in March 1999.[2] The British Overseas Territories Act 2002 granted the right of British citizenship to "British Overseas Territory citizens".

3. As previously reported, the earliest known inhabitants of the Territory were the Arawaks and the Caribs, indigenous people of the region. The Dutch established the first permanent European settlement on the islands in 1648. In 1666, British planters took control of the islands and the Territory attained the status of a British colony. The planters were granted civil government, constitutional courts, an elected House of Assembly and a partly nominated Legislative Council, which first met in 1772. In 1872, the islands became part of the Federation of the Leeward Islands. In the 1930s and 1940s, British Virgin islanders demanded greater self-governance, which led to the Territory becoming a separately administered colony in 1956.

4. In 2007, the British Virgin Islands adopted a new Constitution. The Virgin Islands Constitution Order 2007 came into force on 15 June 2007. Under this Constitution, the administering Power appoints a Governor with responsibilities for defence, internal security, external affairs, public service and the administration of the courts. In the areas of internal security and external affairs, the 2007 Constitution provides for the territorial Government to have formal input, allowing for greater sharing of those responsibilities. At the same time, there is an overriding reservation for the British monarch to make laws for the peace, order and good government of the Virgin Islands, specifically there is limited legislative or discretionary power reserved for the Governor.[3] According to an independent review

* The information contained in the present working paper has been derived from published sources, including those of the territorial Government, and from information transmitted to the Secretary-General by the administering Power under Article 73 *e* of the Charter of the United Nations.

[1] Central Intelligence Agency, *The World Factbook*.

[2] "Partnership for Progress and Prosperity: Britain and the Overseas Territories", White Paper submitted to the House of Commons on 17 March 1999 by the United Kingdom Secretary of State for Foreign and Commonwealth Affairs; reproduced in A/AC.109/1999/1 and Corr.1, annex I.

[3] Information provided by the administering Power on 29 December 2009.

of British offshore financial centres commissioned by the United Kingdom Government and subsequently released in October 2009, the British Virgin Islands has a standing entrustment which allows it to negotiate treaties in specific areas, such as certain offshore financial matters.

5. The Governor of the British Virgin Islands, David Pearey, who took office on 18 April 2006, is due to retire. In 2009, William Boyd McCleary was appointed as his successor, and is expected to take up his appointment during July/August 2010.

6. As previously reported, the 2007 Constitution led to the introduction of a cabinet style of Government. The Executive Council was replaced by a Cabinet, the Chief Minister by a Premier, and the Legislative Council by a House of Assembly. The Cabinet consists of the Premier (appointed by the Governor from among the elected members of the House of Assembly), four other Ministers (appointed by the Governor on the advice of the Premier) and one ex officio member (the Attorney General). The Governor attends and presides over the Cabinet. The agenda is agreed by the Cabinet Steering Committee, consisting of the Governor, the Premier, and the Cabinet Secretary. The House of Assembly consists of a Speaker, the Attorney General (ex officio) and 13 elected members (9 members from one-member electoral districts and 4 members representing the Territory at large).

7. There are four political parties in the Territory: the Virgin Islands Party (VIP) founded in 1971; the United Party (UP), founded in 1966; the Concerned Citizens' Movement (CCM), founded in 1994 as a successor to the Independent People's Movement; and the National Democratic Party (NDP), founded in 1998. General elections must be held at least once every four years. Candidates are elected based on a simple majority.

8. Persons voting must be 18 years of age or over and have "belonger status". According to the administering Power, it is estimated that some 19 per cent of the population has "belonger status", which includes the right to work without a permit and the right to vote. In practice, as previously reported, a person has to live and reside continuously in the Territory for 20 years before he or she may apply for permanent residence. After obtaining permanent residence, he or she may apply to become a belonger. The Cabinet decides on matters related to residence and belongership status, while the Governor has authority with regard to British citizenship.

9. In the last general election, held on 20 August 2007, the Virgin Islands Party won 10 of the 13 seats in the House of Assembly and subsequently formed the Government, with Ralph T. O'Neal as Premier. The next general election is scheduled for September 2011.

10. The law of the British Virgin Islands comprises common law of England, locally enacted legislation, and imperial legislation. Justice is administered by the Eastern Caribbean Supreme Court based in Saint Lucia, which consists of two divisions: the High Court of Justice and the Court of Appeal. According to the administering Power, there are three resident High Court Judges, and a visiting Court of Appeal, which comprises the Chief Justice and two judges of appeal and sits twice a year in the Territory. There is also a Magistrates' Court, which hears prescribed civil and criminal cases, as well as a Juvenile Court and a Court of Summary Jurisdiction. The United Kingdom Privy Council's Judicial Committee is the final court of appeal. According to the administering Power, a new Commercial

Court was opened in the Territory in October 2009 to serve the Eastern Caribbean jurisdictions, including the British Virgin Islands.

11. Speaking at the Caribbean Regional Seminar convened under the auspices of the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples in Frigate Bay, Saint Kitts and Nevis from 12 to 14 May 2009, the representative of the British Virgin Islands stated that whereas no one in the Territory wanted the British Virgin Islands to be a colony or territory of any administering Power, there was no support for independence among the people of the Territory. The predominant view was that independence should be pursued only when the British Virgin Islands can be sustained economically. The issue of independence had not been put before the people at any of the general elections or at any referendum, and it was commonly felt not to be a burning issue. The full text of the statement can be found on the United Nations website on decolonization.

12. On 9 December 2009, the eleventh meeting of the Overseas Territories Consultative Council was held in London. According to the administering Power, at the request of overseas territory leaders, this year a forum was held the day before the Consultative Council on 8 December to review the aforementioned 1999 White Paper "Partnership for Progress and Prosperity" which established the principles that had guided the relationship between the United Kingdom and territories since 1999. The Forum was the first stage of a consultation process on the future of that relationship. At the Consultative Council meeting, the United Kingdom and the Non-Self-Governing Territories represented, including the British Virgin Islands, inter alia agreed to continue their discussions on the relationship between the United Kingdom and the overseas territories.

III. Budget

13. Estimated expenditure of the Territory for 2009 was approximately $254 million, with an estimated revenue of about $280 million and an estimated surplus of $26 million. The territorial Government is responsible for public sector finance in terms of funding capital expenditures from operating surpluses, where feasible, and remaining in compliance with the borrowing guidelines agreed with the United Kingdom.[1]

14. According to the aforementioned independent review of British offshore financial centres of October 2009, the downturn in fee income from international business company incorporations contributed to a deterioration in the public finances in the British Virgin Islands. The national debt increased by 27 per cent to $102.4 million in 2009, while annual debt servicing obligations had grown by 34.6 per cent since 2008. Revenue was forecast to decline by 5 per cent in 2009 compared with the previous year.

15. In the British Virgin Islands, there is no income, corporation, value added or goods and services tax. As previously reported, in October 2008 the United Kingdom and the British Virgin Islands signed a tax agreement involving arrangements for exchanging tax information and avoiding double taxation of individuals. Since then, several other tax information exchange agreements have been signed by the British Virgin Islands and other countries.[2]

IV. Economic conditions

A. General

16. The economy of the British Virgin Islands is largely based on financial services, which contribute approximately half of the gross domestic product (GDP), and tourism. Since 1959, the legal tender of the British Virgin Islands has been the United States dollar.

17. According to the administering Power, GDP figures for 2008 indicated that the economy of the Territory contracted by approximately 0.6 per cent as a result of the global economic slowdown. In 2008, GDP fell by $7.03 million from $1.1 billion in 2007. Per capita GDP was estimated at $38,820 for 2008.

18. Against the backdrop of an economic recession in 2009, the territorial Government set out to stimulate the two major segments of the economy, financial services and tourism, through the implementation of various related policies and programmes. In this context, the Government was working to increase spending on development projects. At the same time, as stated in the Premier's 2009 budget address, there was an ongoing dialogue between the territorial Government and the British Virgin Islands Electricity Corporation with regard to lowering the high cost of electricity charges.

19. According to the November 2009 Throne Speech of the Territory, the territorial Government was committed to providing a supportive environment for the Territory's small businesses and continues to seek ways to strengthen the economy. Further, having gained Cabinet approval of a National Trade Policy in 2009, the Government intends to propose legislation on fair competition, foreign direct investments, franchising, anti-dumping and consumer protection.

20. The principal trading partners of the British Virgin Islands are the United States of America, Puerto Rico, States members of the Caribbean Community (CARICOM) and the United Kingdom. Imports consist mostly of food, machinery and fuel.

B. Financial services

21. According to the aforementioned independent review of British offshore financial centres, the British Virgin Islands were a leading domicile for international business companies, with much business coming from the Far East in addition to strong business links with the United States. The Territory, which is home to some 800,000 international business companies, has experienced a fall in company incorporations. Nevertheless, according to the administering Power, there were 61,716 new companies registered in 2008. By April 2009, the British Virgin Islands had "substantially implemented" the principles of transparency and exchange of information developed by the Global Forum of the Organization of Economic Cooperation and Development. The financial services sector accounts for approximately 60 per cent of the GDP of the Territory.

22. The British Virgin Islands Business Companies Act of 2004 helped position the British Virgin Islands as a leader in the registration of corporate structures worldwide. The Financial Services Commission, through the Registry of Corporate

Affairs, continues to be one of the major revenue-generating engines in the Territory. The International Financial Centre, under the Ministry of Finance, is the entity charged with marketing and promoting the financial services sector of the Territory. The Financial Investigation Agency continues to investigate financial crime. According to the territorial Government, as reflected in the 2009 Speech from the Throne, measures to ensure that the Territory continues to meet relevant international standards have been passed in the form of the Financing and Money Services Act 2009, the Financial Services Commission (Amendment) Act 2009 and the Proliferation Financing (Prohibition) Act 2009.

C. Tourism

23. Tourism is one of the two major economic pillars of the Territory. According to the administering Power, in 2008 tourism accounted for 37 per cent of GDP and directly employed one in every three persons in the British Virgin Islands. In 2009, visitor arrivals declined from 952,711 to 934,168. With regard to the continued decline of visitor arrivals, in 2009 the Premier emphasized the territorial Government's commitment to doing whatever was necessary to improve the tourism sector. As an illustration, the Government has budgeted to increase spending on tourism-related infrastructural development projects and communication services.[6]

24. According to the administering Power, work on various high-end tourism developments is continuing, with a planned increase of over 1,088 hotel rooms over the next five years. At the same time, the Tourist Board of the British Virgin Islands continues its efforts towards improving standards, including through an initiative to improve basic physical standards of accommodation facilities.

D. Agriculture, fisheries and shipping

25. In the 2009 budget address, the territorial Government stated that the agricultural sector had to increase the ability of the British Virgin Islands to sustain itself and to help reduce reliance on imports to feed its people. Based on that policy direction, the territorial Government has since 2008 embarked on projects to install greenhouses on the mainland of Tortola and on Virgin Gorda, which would be capable of producing enough vegetables to meet demand for these products within the Territory.

26. The Territory's Fisheries Act of 1997 and Fisheries Regulations of 2003 govern fishing in the British Virgin Islands. Fishing mainly serves the local market. The two main types of fisheries in the Territory are small-scale commercial and recreational fisheries. Since 2008, the Territory's Fishing Complex programme has helped ensure that the people of the British Virgin Islands are able to purchase local fish and other seafood year round.

27. According to the 2009 Throne Speech, there was a comparatively low number of marine accidents during 2008. The territorial Government nevertheless continues to engage local recreational boaters more directly with education, information and advice conducive to their own safety and that of others sharing the marine areas of the Territory.

[6] 2009 Budget Address, 26 February 2009.

E. Transport, communications and public works

28. The British Virgin Islands has over 200 kilometres of surfaced roads. Direct shipping services operate from the United Kingdom of Great Britain and Northern Ireland, the United States of America and the Netherlands. A deepwater harbour exists in Road Town. Regular ferry service links Tortola with some of the other islands and with St. Thomas of the United States Virgin Islands. There are three international airports in the British Virgin Islands, served by some 15 airlines.

29. Development planning in the British Virgin Islands is governed by the Physical Planning Act 2004, under which all development in the Territory requires approval from the Physical Planning Authority in line with the Territorial Plan, which determines land use activities and identifies undeveloped areas.

30. As previously reported, the Territory's seaports need various improvements and its Ports Authority planned to begin a major capital development programme that would include the ports at Virgin Gorda, West End and Port Purcell. In his 2009 budget address, the Premier stated that major work was about to start on the West End terminal. He also said that the Territory needed an improved road infrastructure that would help eliminate congestion that was occurring in certain areas.

31. According to the 2009 Throne Speech, 2010 would see a comprehensive review of the Telecommunications Act 2006. Complementing the review would be proposals for telecommunications regulations addressing consumer protection and a licence-exemption framework, which would provide residents with the right to use various commonly used radio devices while regulating and managing wireless interference.

32. The Water and Sewerage Department of the territorial Government has about 8,000 household customers who are provided water from 10 active reservoirs and 8 desalination plants. According to the administering Power, the plants are owned by three private companies from which the territorial Government purchases the water.

V. Social conditions

A. General

33. Financial assistance for sickness and maternity benefits, as well as pensions is provided for those who need it through the Social Security Board. In November 2009, the Premier said to the press that the territorial Government would have to review certain aspects of the non-contributory pension scheme of the British Virgin Islands. The Social Development Department provides grants and other assistance to persons who are in need of assistance through the Public Assistance Committee, appointed by the Cabinet. Other programmes that are administered by the Social Development Department include services for the elderly and the disabled, as well as community development.

34. According to the 2009 Throne Speech, an internal consultation process to strengthen the social services sector had been completed and recommendations would be submitted towards a social legislation package on the protection of children and domestic violence. Moreover, the Government had hired a disability

policy adviser to assist with the development of relevant policies and legislation. A draft disability policy and legislative brief were expected to be completed for public consultation.

35. According to the territorial Government, as reflected in its 2009 budget address, the Minister for Health and Social Development intends to launch a social sector analysis and a response planning initiative to examine the current level and mix of skills available within the Social Development Department, and in the wider community.

B. Labour and immigration

36. The labour force of the British Virgin Islands numbered approximately 19,100 workers in 2008, according to information transmitted by the administering Power. The main employers were the territorial Government, financial services, hospitality and construction sectors. The workforce was comprised of approximately 40 per cent Virgin Islanders and 60 per cent expatriates. The unemployment rate was 3 per cent. Unemployment figures were expected to increase for 2009, as employers attempted to reduce overhead costs. Layoffs in 2009 had already been experienced in the tourism sector, particularly in hotels and restaurants.

37. Work permit exemptions are granted based on enrolment in the school system (entrance at the primary level and completion at the secondary level), marriage to a belonger for a period of not less than three years, and residency in the Territory of the British Virgin Islands for 20 years or more by a person who has demonstrated good charac[illegible]. The number of exemptions granted is considered on an annual basis.

38. In 2009, the territorial Government continued to address labour force-related issues. The Premier stated in the budget address that the Government was cognizant of the need for expediency in processing the applications that came through the Labour Department of the Territory. He emphasized, however, that the needs of the people of the Territory had to be met first. Moreover, according to the 2009 Speech from the Throne, the territorial Government intended to introduce legislation to penalize the agents or owners of vessels (whether they are boats or aircraft) when they knowingly transport persons to the British Virgin Islands who do not meet the basic entry requirements of the Territory.

C. Education, culture and sports

39. Education is free and compulsory in the British Virgin Islands for children between the ages of 5 and 16 years. There are public and private primary schools in the Territory on Tortola, Anegada, Virgin Gorda and Jost Van Dyke, as well as high schools, both private and public. The community college at Paraquita Bay, the H. Lavity Stoutt Community College, is a comprehensive community college which offers university-parallel, technical-vocational and adult continuing education programmes.

40. According to the 2009 budget address, there were a number of programmes to develop the educational system of the British Virgin Islands, which included rehiring retired teachers to supplement and enhance the delivery of material to students, enhancing the certifications and qualifications of nationals in the financial

services industry; ensuring the accountability of the education system through regular reporting and evaluation; enabling monthly grade level meetings with teachers in the schools; revising and implementing the National Curriculum; initiating a youth development programme aimed at motivating and empowering the youth; initiating a television homework help programme; and assisting schools through public-private partnership in education through the Adopt a School Programme.

41. Moreover, in order to provide the teachers with the needed tools to perform at a higher level, the territorial Government collaborated with the University of the West Indies and the Territory Community College in the autumn of 2008 to implement a Bachelor of Education Degree programme, in which 20 teachers of the Territory were enrolled.

42. With regard to cultural initiatives, as reflected in the 2009 Speech from the Throne, the territorial Government remained highly committed to ensuring that the culture of the Virgin Islands is recognized and preserved, on the premise that the identification and preservation of the various aspects of the culture of the Territory, such as language, music, history, art, drama, literature, food and architecture would go a long way to instil cultural awareness and pride in who the Virgin Islanders are as a people. In that regard, in 2009 the British Virgin Islands has partnered with the United Nations Educational, Scientific and Cultural Organization (UNESCO) to help redouble its efforts.

43. The Department of Youth Affairs and Sports works with sports organizations to improve their capacity in administration, event hosting, fund-raising, international networking and athlete development. According to the 2009 Throne Speech, discussions were under way to introduce a youth and a sports policy for the Virgin Islands, with the aim of providing a framework to guide and govern the principles and practice of sports throughout the Territory. It would seek to establish best practices in the provision of services, facilities, professional management and development of sports and the nurturing and development of the athletic abilities and talents of all residents of the Virgin Islands.

D. Public health

44. The Health Services Authority of the Territory, an autonomous corporate body, was established in 2005 when the British Virgin Islands Health Services Act was passed, to manage all public health-care delivery services for the Ministry of Health and Social Development. According to the administering Power, a review of the health legislation of the Territory began in late 2008, continuing throughout 2009, including on the introduction of a national health insurance system. In the same year, as reflected in the 2009 Speech from the Throne, the House of Assembly unanimously passed the Nurses and Midwives Act 2009, which constituted an updated framework for nursing in the Territory and brought it on a par with advancements in standards and global changes in the field of nursing. A new Nursing and Midwives Council has been appointed.

45. The territorial Government continued to be the major funding source for the Authority. In accordance with the 1977 Public Health Act, the statutory framework for protecting and promoting the population's health, public health services are provided free at the point of use to certain groups such as full-time schoolchildren,

nursing mothers, the elderly, the mentally challenged, health workers, fire-fighters, the police, prisoners and prison officers.

46. According to the 2009 Throne Speech, an assessment of the mental health system of the Territory had been completed, and a draft policy brief was being reviewed in consultation with the Pan American Health Organization and prepared for public consultation. The outcome of the initiative was expected to bring awareness to mental health issues and the prevention of mental illness, as well as the introduction of a new Mental Health Act.

47. The British Virgin Islands has one 44-bed public hospital, Peebles Hospital, and one 8-bed private hospital, the Bougainvillea Clinic. Both are located in Road Town. Peebles Hospital offers general and certain specialist medical services. The territorial Government budgeted approximately $80 million during fiscal year 2009/2010 for the completion of the new Peebles Hospital structure, which is expected by mid-2010. Tertiary care services are accessed at institutions in Puerto Rico, other Caribbean islands and the United Kingdom.

48. According to the administering Power, there is a total of 103 physicians registered to practise in the British Virgin Islands. Of these, 58 are actively practising in the Territory, 32 in the public sector and 26 in the private sector. There are 11 dentists registered to practise in the British Virgin Islands, of whom 3 work in the public sector and 8 in the private sector. Additional information on health services can be found in the 2009 working paper (A/AC.109/2009/1).

49. In terms of disease conditions, according to media reports, 99 HIV/AIDS cases had been reported towards the end of 2009. To date, 33 persons are reported to have died of AIDS. According to the Territory AIDS Coordinator, medication to treat persons living with the disease is free. As previously reported, chronic non-communicable diseases, mainly diabetes and hypertension, contribute to adult morbidity and mortality.

E. Crime and public safety

50. During the early 2000s, the increased level of crime in the Territory became a matter of concern. As previously reported, the problem is gradually being addressed by the territorial Government, including with support from the Royal Virgin Islands Police Force. In 2009, according to the territorial Government, a five-member Police Service Commission was established to contribute to the development of the Royal Virgin Islands Police Force. As reflected in the 2009 Speech from the Throne, the Government will introduce a Justice Protection Bill and other measures during 2009/2010 to strengthen the crime fighting capabilities of the Royal Virgin Islands Police Force and other law enforcement agencies.

51. Moreover, as reflected in the 2009 budget address, the territorial Government continued its efforts to ensure that the conditions at the Territory prison at Balsum Ghut, Tortola, were in accordance with international standards and territorial laws. In this context, the intermittent services of a parole officer from the United Kingdom as a consultant were agreed for a period of two years. Further, as reflected in the 2009 Speech from the Throne, in February 2009 the House of Assembly passed the Parole Act 2009, bringing the Territory up to date with trends in human rights and new approaches in dealing with criminal offenders. The Act provides for

the creation of a parole system and a Board charged with the duty to make recommendations for the release of prisoners on temporary licence, designed to ensure that suitable prisoners are released for precisely defined and specific activities. Since early March 2009, the territorial Government has been undertaking the necessary preparations for implementation of the Act.

VI. Environment

52. The British Virgin Islands has acceded to several global multilateral environmental agreements, including the Convention on International Trade in Endangered Species of Wild Fauna and Flora, the Convention on Biological Diversity, the Convention on Wetlands of International Importance, and the Convention on International Trade in Endangered Species of Wild Fauna and Flora.

53. During 2009, according to information provided by the administering Power, the British Virgin Islands carried out two climate change public stakeholder consultation workshops, and a comprehensive legislative review had produced an Environmental Management and Conservation of Biodiversity Bill dealing with environmental management and preservation.

54. With regard to basic environmental issues such as solid waste disposal and littering, in his 2009 budget address the Premier stated that the territorial Government was concerned about the inability of the Territory to manage solid waste. He announced that a new incinerator would be installed, which would be able to meet the need for a clean and pollution-free British Virgin Islands. In addition, as reflected in the 2009 Speech from the Throne, the Litter Abatement (Amendment) Act 2009 gave a broader definition for litter wardens to include the services of solid waste officers and members of the Police Auxiliary Force. The Act also increased penalties for littering.

VII. Relations with international organizations and partners

55. The British Virgin Islands has associate membership in UNESCO, the International Labour Organization (ILO), and the Economic Commission for Latin America and the Caribbean. According to the administering Power, the Territory labour laws have been reassessed in the light of ILO and other relevant international standards, and a new Labour Code Bill has been formulated for consideration by the legislature. Additionally, under the National Commission Act of 2009 of the Territory, a British Virgin Islands National Commission for UNESCO was established to help carry out the aims and objectives of that international organization, and to collaborate with UNESCO in the areas of institution- and capacity-building concerning the Territory.

56. The Territory is an associate member of CARICOM and the Organization of Eastern Caribbean States (OECS), as well as a borrowing member of the Caribbean Development Bank. In 2009, the British Virgin Islands joined consultations held by OECS member States on a proposed economic union, which was established on 29 December 2009 as the OECS Economic Union.

57. As a Non-Self-Governing Territory of the United Kingdom, the British Virgin Islands is associated with the European Union but is not a part of it.

VIII. Future status of the Territory

A. Position of the territorial Government

58. The position of the territorial Government regarding the future status of the British Virgin Islands is reflected under section II on constitutional issues.

B. Position of the administering Power

59. Information provided by the United Kingdom for inclusion in the report of the Secretary-General of 23 April 2009 entitled "Implementation of decolonization resolutions adopted since the declaration of the First and Second International Decades for the Eradication of Colonialism" (A/64/70), inter alia states that the United Kingdom's policy towards the Overseas Territories rested on the basis that it is the people of each Territory who determine whether they wish to stay linked to the United Kingdom or not. The United Kingdom had no intention of imposing independence against the will of the people concerned. Further, the statement referred to the suggestion by some commentators that the United Kingdom should agree to allow Territories the three status options set out in General Assembly resolution 1541 (XV), for removing Territories from the United Nations list, namely integration, independence, or free association. According to the United Kingdom, its policy was not to agree to integration, and nor was there any indication that any of the Territories were seeking this. Its position on independence had already been set out. The concept of free association, as defined by the General Assembly, would mean that the Territory itself would draw up its Constitution free from the involvement of the United Kingdom, which would nonetheless retain all responsibility for the Territory, without the powers necessary to meet its responsibilities for the Territories. This was not a position the United Kingdom was willing to put itself in.

60. The United Kingdom further pointed out that General Assembly resolution 1541 (XV) was not legally binding and the United Kingdom had not voted in favour of the resolution. The United Kingdom Government indicated that it considered the existence of the Special Committee of 24 and the list of Non-Self-Governing Territories to be outdated, and remained of the view that none of its Overseas Territories should remain on the list.

61. In a statement made on 5 October 2009 at the 2nd meeting of the Special Political and Decolonization Committee (Fourth Committee) during the sixty-fourth session of the General Assembly (see A/C.4/64/SR.2), the representative of the United Kingdom said inter alia that where the people of any of its Overseas Territories clearly and constitutionally opted for independence, the United Kingdom would help them achieve it. Where instead, a Territory wished to retain links, the United Kingdom would safeguard the future development and continued security of that Territory, and would hold regular annual political consultations with it. Meanwhile, the respective territorial constitutions governed the relationship between the United Kingdom and its Overseas Territories and were regularly updated, carefully considering all proposals for constitutional change received from the Territories. A number of such new constitutions had come into force since 2006.

62. The United Kingdom stated that maintaining high standards of probity and governance was a cornerstone of British administration of the Territories. The United Kingdom Government was committed to allowing each Territory to run its own affairs responsibly as far as possible, but when developments in a Territory gave cause for concern or a Territory failed to fulfil international obligations, the United Kingdom would not hesitate to raise the matter with the territorial Government and intervene where necessary.

63. Further, the British Government continued to encourage all its Overseas Territories to meet internationally recognized Group of Twenty standards to ensure sound financial regulation, resilient public finances, and responsible debt management.

C. Action by the General Assembly

64. On 10 December 2009, the General Assembly adopted without a vote resolutions 64/104 A and B, based on the report of the Special Committee submitted to the General Assembly[5] and its subsequent consideration by the Special Political and Decolonization Committee (Fourth Committee) (see A/64/413). Section IV of resolution 64/104 B concerns the British Virgin Islands. In the operative part of that section of the resolution, the General Assembly:

> "1. ***Welcomes*** **the new Constitution of the British Virgin Islands, which took effect in June 2007, and notes the continued need expressed by the territorial Government for minor constitutional amendments in the years to come;**
>
> 2. ***Requests*** **the administering Power to assist the Territory by facilitating its work concerning public outreach efforts, consistent with Article 73 *b* of the Charter of the United Nations and, in that regard, calls upon the relevant United Nations organizations to provide assistance to the Territory, if requested;**
>
> 3. ***Welcomes*** **the efforts made by the Territory to focus its economic base more on local ownership and on professional service industries other than financial services;"**

[5] *Official Records of the General Assembly, Sixty-fourth Session, Supplement No. 23* and corrigendum (A/64/23 and Corr.2).

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Tokelau

Working paper prepared by the Secretariat

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I. General background

1. Tokelau,[1] a Non-Self-Governing territory administered by New Zealand, consists of three small atolls in the northern South Pacific (Fakaofo, Nukunonu and Atafu), with a total area of approximately 12.2 km^2. Each atoll comprises strips of land up to 200 m wide and not more than 5 m above sea level. Samoa, 480 km to the south, is the nearest sizeable neighbour and the principal point of contact for Tokelau with the outside world.

2. Tokelauans are Polynesians with linguistic, family and cultural links with Samoa. The last census of 19 October 2006 recorded a de jure resident population of 1,466, with the following breakdown by atoll: Atafu, 524; Fakaofo, 483; and Nukunonu, 426. An additional group of 33 Tokelauans was recorded in Apia, Samoa. As New Zealand citizens, Tokelauans may reside in New Zealand, and therefore also Australia. In 2006, almost 7,000 people in New Zealand declared themselves to be Tokelauan. Sizeable Tokelauan communities also exist in Australia, American Samoa and Samoa.

3. The New Zealand official with principal responsibility for relations with Tokelau is the Administrator of Tokelau, who is based in Wellington and is appointed by the Minister for Foreign Affairs of New Zealand. The Administrator heads the Office of the Administrator, which has day-to-day responsibility for New Zealand/Tokelau relations. In October 2006, David Payton was appointed Administrator for a term of three years. Pending a decision on the appointment of a new Administrator, the New Zealand Secretary of Foreign Affairs and Trade, John Allen, currently acts in the position.

II. Constitutional and political developments

A. Local self-governance

4. As reported in previous working papers on the question of Tokelau (see A/AC.109/2001/5, A/AC.109/2002/6, A/AC.109/2003/10, A/AC.109/2004/8 and A/AC.109/2005/3), the current process of constitutional development stems from the 1998 decision by the General Fono (the national representative body of Tokelau) to endorse a comprehensive report entitled "Modern House of Tokelau", which addressed the core issue that faced Tokelau in creating a constitutional framework that suited an atoll- or village-based self-governing community that respected traditional decision-making customs.

5. In accordance with the terms of the 1998 "Modern House of Tokelau" report, General Fono delegates are now elected on the basis of proportional village representation with delegates elected through universal village suffrage, rather than a system of equal village representation with delegates appointed by the respective Village Councils, as previously. In 2004, further decisions were made on the method of appointment of the Chairperson of the General Fono and on the role and responsibilities of the six-person Council of Ongoing Government, which is the executive Government during times when the General Fono is not in session. The

[1] The information contained in the present working paper has been derived from published sources, including those of the territorial Government, and from information transmitted to the Secretary-General by the administering Power under Article 73 e of the Charter of the United Nations.

Council consists of three Faipule (representatives of each village) and three Pulenuku (mayor of each village). The position of Ulu-o-Tokelau, or Head of Government, rotates annually among the three Faipule. In 2009, it was held by the Faipule of Fakaofo. The Faipule for Atafu was scheduled to become Ulu-o-Tokelau for 2010 on 20 February 2010.

6. Village elections for Faipule, Pulenuku and General Fono delegates are held in each village in January, every third year. The most recent elections were held from 17 to 19 January 2008. Representation in the General Fono currently stands at Atafu, seven delegates; Nukunonu, six; and Fakaofo, seven.

7. Since July 2004, the three Village Councils have taken full responsibility for all village public services. That decision emanated from the Modern House of Tokelau approach, whereby the traditional Council of Elders on each atoll should serve as the foundation for any future governance structure. Under that arrangement, the three Village Councils would delegate authority to the General Fono for activities that needed to be handled at the national level (see A/AC.109/2005/3). The remaining aspect of the Modern House project, known as Friends of Tokelau (i.e., keeping Tokelauan communities in New Zealand and other interested parties informed of developments) is handled by the Office of the Council of Ongoing Government of Tokelau and the Office of the Administrator in Wellington. The Office of the Administrator has been incorporated into a larger Special Relations Unit, which is responsible for New Zealand's relationship with Tokelau (as well as with Niue), and is staffed by officers of both the Ministry of Foreign Affairs and the New Zealand Agency for International Development. A member of the Tokelau Public Service works in the Office of the Administrator.

B. Referendum process

8. In 2003, the General Fono took a formal decision, with the support of all three Village Councils, to "endorse self-government in free association with New Zealand as the choice to be actively explored with the New Zealand Government". During a visit to Tokelau in August 2004, the then New Zealand Prime Minister welcomed decisions by Tokelau on its future political status and assured Tokelau of the ongoing friendship and support of New Zealand as it moved towards an act of self-determination.

9. In August 2005, the General Fono approved a draft constitution as the basis for the proposed act of self-determination, as well as the text of a draft treaty of free association between Tokelau and New Zealand. In November 2005, the New Zealand Cabinet gave its formal approval. The so-called "referendum package", consisting of the draft treaty and the draft constitution, was to form the basis for the referendum on self-determination. In line with a decision by the General Fono, an overall majority of two thirds of the valid votes cast was required for a change to the status of Tokelau.

10. The first referendum on self-determination was held sequentially in Apia and on the three atolls from 11 to 15 February 2006 (see A/AC.109/2006/20). The outcome of the referendum fell short of the required two-thirds majority, with 60 per cent of valid Tokelauan votes cast in favour of self-government in free association with New Zealand. The United Nations, which formally monitored the referendum, deemed the process credible and reflective of the will of the people of Tokelau. A

representative of the Special Committee accompanied by a Political Affairs Officer of the Department of Political Affairs also observed the referendum process.

11. In August 2006, the General Fono voted to hold a second referendum on Tokelauan self-determination in late 2007. The proposed constitution and the draft treaty, commonly referred to as the self-determination package, were to be the same and the legal threshold for acceptance of the proposal would remain at a two-thirds majority.

12. The second referendum was held from 20 to 24 October 2007. The result, with 64.4 per cent in favour, was again below the two-thirds threshold, thereby leaving the status of the Territory unchanged (see A/AC.109/2007/19). As with the first referendum, the United Nations formally monitored the voting, with representatives of the Special Committee on Decolonization and the Department of Political Affairs present as observers.

13. Following the results of the second referendum, the General Fono requested the Government of New Zealand to keep on the table the entire self-determination package (i.e., the draft treaty and draft constitution that had been agreed on and had served as the foundation for the previous ballots). The Council of Ongoing Government noted that Tokelau could in the future change the two-thirds majority threshold for the referendum, but should put in place measures to ensure that a threshold was supported by a clear majority in each village to guarantee unity. The Council of Ongoing Government also noted Tokelau's strong commitment to self-determination and its wish to have a constitution, albeit one that did not encompass the free association self-government provisions.

14. The outcomes of the referendums, neither of which reached the threshold of support set by Tokelau's General Fono for a change of status, have been acknowledged and accepted by New Zealand. As a follow-up to the 2007 referendum result, the Prime Minister of New Zealand met with Tokelau's leaders in February 2008, to discuss the next steps in the New Zealand-Tokelau relationship. It was agreed that a "pause" should be taken in Tokelau's self-determination efforts, focusing instead on achieving Tokelau's basic needs.

III. Economic conditions

A. General economic overview

15. Tokelau faces major constraints on its economic growth, including such natural disadvantages as small size, isolation, wide spread of the atolls, lack of natural resources and natural disasters (such as cyclones). Tokelau's economic stability has so far been made possible by the high levels of assistance provided by the administering Power. With the continued assistance of New Zealand, the Council of Ongoing Government of Tokelau intends to maintain its focus on implementing various priority projects related to infrastructure, the delivery of core services and shipping, as well as on developing the villages and to strengthening the General Fono, the Council of Ongoing Government of Tokelau and the Tokelau Public Service.

16. Tokelau has a unique combination of traditional and modern income resource streams. With Government funding, many villagers are paid regularly for various village duties ranging from construction and boat-loading to assistance to the

General Fono and other public entities. Much investment has been made in expanding commercial fisheries; however, maintaining artisanal fisheries at a subsistence level remains the preferred approach since the lack of reliable transport makes competition with Samoan fisheries, which are closer to markets, challenging.

17. Traditional and communal values and practices play a key role in contributing to a state of general well-being and equity in the Territory, as evidenced by the *inati* system and the importance attached to upholding the concept of the family and/or the extended family. The tradition of *inati* requires the deposit at a central location of food and produce, which is then apportioned by the distributors on the basis of "share groups". The principle provides for a secure distribution system that addresses the needs of every member of the community, including the elderly, widows, single parents and children.

18. Tokelau has been able to maintain a fairly steady level of population. For that trend to continue and to avoid the migration of skilled persons, both Tokelau and New Zealand are aware that basic services must be maintained at levels which promote confidence in the quality of life on Tokelau's atolls.

B. The administering Power's assistance to Tokelau

19. Throughout 2009, discussion continued within Tokelau and with New Zealand on appropriate and achievable goals and objectives in the area of economic development. Both Tokelau and New Zealand have reaffirmed their commitment to identifying activities and projects that can be viably established and maintained.

20. Assistance is provided under the terms of three-year economic support arrangements. The most recent of these was signed by the Minister for Foreign Affairs of New Zealand and the Ulu of Tokelau in December 2007. It covers the period from 1 July 2007 to 30 June 2010 and commits up to $NZ 43.18 million in assistance for Tokelau,[2] delivered through contributions to the Tokelau International Trust Fund, formally established in November 2004. The Fund is designed to provide intergenerational security and an independent source of income to Tokelau in the future. With contributions from Tokelau, New Zealand, Australia and the United Kingdom of Great Britain and Northern Ireland, the Fund now stands at approximately $NZ 56 million.

21. Tokelau's overall budget for the period 2009-2010 is now under Tokelau's control — previously it controlled the budgetary support element but not the project assistance funds. New Zealand remains the primary source of economic support. By 2009-2010, overall New Zealand assistance to Tokelau had increased to $NZ 19.5 million.

C. Transport and communications

22. Tokelau has no airstrips and its main transportation option is that provided by a single vessel, the *MV Tokelau*, a ship with limited cargo and passenger capacity that provides service every two weeks between Tokelau and Apia, as well as inter-atoll services. The United Nations mission that visited the Territory in August 2002 concluded that the lack of transportation options was one of the greatest obstacles to

[2] As at 31 December 2008, the New Zealand dollar was equivalent to 0.58 United States dollars.

economic and social development in the Territory and recommended that serious consideration be given to the establishment of a dedicated inter-atoll ferry and an airstrip on one of the atolls. Since 2003, New Zealand has funded additional visits by larger vessels under charter from the Samoa Shipping Corporation Ltd. Recognizing that the quality of the shipping service linking Tokelau's atolls and providing contact with Samoa lies at the heart of its ongoing viability, New Zealand, as the administering Power, has committed itself to a major review of that service. In December 2009, the New Zealand Foreign Minister announced that as a result of a survey in August 2009, the MV *Tokelau* had been certified by Lloyds Classification Society as seaworthy and safe for the next two years. For his part, at the beginning of February 2010, Tokelau's outgoing Ulu stressed the importance of a sound shipping service and proper communication and expressed the hope that there would soon be progress. According to New Zealand's International Aid and Development Agency (www.nzaid.govt.nz/library/docs/factsheet-tokelau.pdf) it is envisioned that a new shipping service that will be safer and have greater cargo and passenger capacity and accommodation will begin by late 2011.

23. The ongoing development of Tokelau's infrastructure and maintenance of existing facilities is a major facet of Tokelau-New Zealand relations. Decisions on the prioritization of projects rests with the Government of Tokelau, both at the level of the public service and the village councils. Upgrading of schools and health centres has been accorded the highest priority on each atoll for the current programme cycle.

24. For more than a decade, large investments have been made to facilitate contacts for Tokelauans inter-atoll as well as with the outside world. The Telecommunications Tokelau Corporation, a $NZ 4 million international telecommunication service, was established in 1997. Tokelau also has a website (www.tkl.tk), which became operational in January 2002 and which offers both free and paid domain names. The website is the result of a commercial licensing agreement between the Corporation and a private company, Talofia Inc. It is seen as having the potential to provide some revenue to the Territory without any capital outlay by the Corporation.[7] Pursuant to a request from the atolls, the Corporation began to install new equipment on the atolls in 2009 to boost telecommunication services in the villages and to assist in creating Internet-based long-distance education opportunities.

25. In February 2002, FM radio stations were inaugurated on each of the atolls with funding from New Zealand. The radio stations are seen as an excellent means of maintaining the Territory's cultural heritage, as well as facilitating communication and transparency on community and decision-making matters, since they broadcast meetings of the Council of Elders on each atoll.

D. Power supply

26. In 2001, work was begun on a diesel-powered electricity system in all three atolls, under the auspices of the New Zealand Agency for International Development. The work was largely completed in 2008 at a cost of some $NZ 5 million. Tokelau remains keenly committed to maximum reliance on renewable energy, for environmental and economic reasons, and is working to develop appropriate strategies. A pilot photovoltaic energy grid project funded by UNDP, as well as by

[7] Press release, "History in the making" (February 2002), and the information transmitted by the Administrator of Tokelau.

contributions from the Government of France covering 15 households on Fakaofo, has been developed and is being evaluated. Intentions are for a roll-out of similar facilities for other communities in Tokelau.

IV. Social conditions

A. Education

27. Under Tokelau's compulsory education system, primary and secondary education are available to everyone. As a member of the University of the South Pacific, Tokelau also has access to the University's educational telecommunications system through a satellite established in Atafu. Despite significant funding for education over many years, education standards on the atolls remain relatively low. This is a key reason why significant numbers of families leave the atolls to seek improved educational opportunities for their children in Samoa, New Zealand and elsewhere. According to the administering Power, a major infrastructure renewal programme is continuing in Tokelau, which includes, as a first stage, the provision of new schools in Atafu and Fakaofo. Efforts have also been devoted to curriculum development, training of principals and senior staff and the extension of secondary schooling in 2009 to cover year 13. Tokelau is also working closely with the Secretariat of the Pacific Community to explore better Internet access.

B. Health care

28. The provision of adequate health services to the populations of three dispersed atolls connected to the wider world by sea transport will always be one of the most important challenges for Tokelau.

29. The major non-local sources of contributions to health care are the Government of New Zealand, the World Health Organization (WHO), the United Nations Children's Fund, the United Nations Population Fund and the United Nations Development Programme, as well as the Government of Australia and the Secretariat of the Pacific Community. The priorities of the national health plan are: (a) healthy islands and communities; (b) healthy lifestyles; (c) development of health partnerships; (d) development of accessible primary health-care services; (e) successful community participation; and (f) development and improvement of the health-service system.

30. Each of Tokelau's atolls has a basic health centre, staffed and equipped to deliver core medical care and related services. Considerable attention and funding is devoted to this core area of Tokelau's needs. As part of a major infrastructure renewal programme, Nukunonu is in the process of having its health centre substantially improved.

31. According to WHO, the general health status of Tokelauans is reasonably good; however, tobacco and alcohol consumption are relatively high among the adult population, especially in males. Obesity is widespread, with a prevalence of 70 per cent for men and 83 per cent for women 30 to 39 years of age and is attributed to diet and physical inactivity.[4]

[4] Information provided by WHO Samoa office.

V. External relations

32. As set out in paragraphs 9 and 10 of the Principles of Partnership statement, Tokelau as a Non-Self-Governing Territory has insufficient international legal personality to enter into formal international legal obligations as a State in its own right. New Zealand is responsible for entering into any such obligations on behalf of Tokelau, after consulting with Tokelau as to its wishes. Tokelau participates in regional and international organizations in its own right to the extent that those organizations provide for such participation.

33. Tokelau is a member of the Forum Fisheries Agency, the South Pacific Community, the University of the South Pacific and the Pacific Regional Environment Programme. In October 2005, Tokelau was admitted as an Associate Member of the South Pacific Applied Geoscience Commission. Later that month, the Ulu of Tokelau attended the Pacific Islands Forum meeting, where Tokelau was welcomed as an observer. Tokelau is an Associate Member of WHO and of the United Nations Educational, Scientific and Cultural Organization.

34. Apart from its relationship with New Zealand, Samoa constitutes another important bilateral contact for Tokelau. Contacts are ongoing in many areas of importance to Tokelau. A practical example of growing cooperation is the work under way to enable Tokelau to ship non-biodegradable waste to Samoa for disposal.

VI. Future status of the Territory

A. Position of the territorial Government

35. Speaking at the 23 June 2009 meeting of the Special Committee, the Ulu-o-Tokelau said that, while Tokelau remained fully committed to self-determination, the results of the two referendums held thus far had not supported a change in status. It would be several years before the General Fono considered holding another referendum. Meanwhile, more needed to be done to strengthen local capacity and infrastructure and to promote economic development. Meanwhile, in the current global financial crisis, Tokelau was taking steps to ensure that its scarce resources were used wisely, in particular by establishing development priorities, setting realistic targets and working to integrate good governance practices into its public management systems. Public expenditure would be realigned accordingly. The strong economic support that Tokelau received from New Zealand reflected both the progress made by Tokelau and the ongoing commitment of New Zealand to the Territory.

36. The Ulu-o-Tokelau acknowledged the commitment of the Special Committee to the implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples, adding that the Territory would continue to look to the Special Committee for guidance in that regard.

B. Position of the administering Power

37. As the administering Power for Tokelau, New Zealand has maintained a strong and consistent commitment both to the aspirations of the people of Tokelau and to the principle of self-determination. It has consistently supported Tokelau's

aspirations to exercise its right to self-determination. On two referendums regarding the issue of self-determination, New Zealand provided all appropriate support for Tokelau's efforts to determine the will of its people for a possible change of status. Successive Administrators and representatives of New Zealand to the United Nations have placed on record before the Special Committee and the Special Political and Decolonization Committee (Fourth Committee) full information about New Zealand's support for Tokelau on this issue. This attitude towards the needs and aspirations of the people of Tokelau has been favourably acknowledged by those Committees on many occasions.

38. Addressing the Special Committee on 23 June 2009, the representative of New Zealand said that a core objective was to provide essential services and a good quality of life to the people of Tokelau. New Zealand would continue to work with Tokelau to meet the needs of its people, and it welcomed the continuing interest of the Special Committee.

39. While speaking before the Fourth Committee on 9 October 2009, the representative of New Zealand said that it had been two years since the people of Tokelau had voted in a United Nations-supervised self-determination referendum where, for a second time, Tokelau's electorate had not reached the threshold they themselves had set for a change of status from that of Territory to one of self-government in free association with New Zealand. Tokelau and New Zealand had then decided to focus primarily on further improving essential services on the atolls, rather than moving in the medium term to a further act of self-determination. The right to self-determination, though fundamental, was not sufficient on its own. The peoples who exercised it must also have the opportunities to develop fully, and that was New Zealand's commitment to the people of Tokelau.

C. Consideration of the question by the Special Political and Decolonization Committee (Fourth Committee)

40. While introducing a draft resolution on Tokelau at the Special Committee, the representative of Papua New Guinea said the text welcomed the assurance by the Government of New Zealand that it would continue to meet its obligations with respect to Tokelau. It also welcomed the cooperative attitude of other States and territories of the region and their support for Tokelau's economic and political aspirations, and the increasing participation of the Territory in regional and international affairs. He reiterated the co-sponsors' commendation of New Zealand's readiness to cooperate with the Special Committee and its exemplary efforts in assisting the people of Tokelau in their endeavours to realize self-determination.

D. Action taken by the General Assembly

41. At its 62nd plenary meeting, on 10 December 2009, the General Assembly, on the recommendation of the Fourth Committee, adopted resolution 64/103, on the question of Tokelau, without a vote.

42. Under the operative part of that resolution, the General Assembly:

1. *Notes* that Tokelau and New Zealand remain firmly committed to the ongoing development of Tokelau for the long-term benefit of the people of

Tokelau, with particular emphasis on the further development of facilities on each atoll that meet their current requirements;

2. *Notes also* the ongoing recognition by New Zealand of the complete right of the people of Tokelau to undertake the act of self-determination when this is considered by the people of Tokelau to be appropriate;

3. *Welcomes* the progress made towards the devolution of power to the three taupulega (village councils), in particular the delegation of the Administrator's powers to the three taupulega with effect from 1 July 2004 and the assumption by each taupulega from that date of full responsibility for the management of all its public services;

4. *Recalls* the decision of the General Fono in November 2003, following extensive consultations in all three villages and a meeting of the Special Committee on the Constitution of Tokelau, to explore formally with New Zealand the option of self-government in free association, and the discussions subsequently held between Tokelau and New Zealand pursuant to the decision of the General Fono;

5. *Recalls also* the decision of the General Fono in August 2005 to hold a referendum on self-government on the basis of a draft constitution for Tokelau and a draft treaty of free association with New Zealand, and notes the enactment by the General Fono of rules for the referendum;

6. *Notes* that two referendums to determine the status of Tokelau, held in February 2006 and October 2007, did not produce the two-thirds majority of the valid votes cast required by the General Fono to change Tokelau's status from that of a Non-Self-Governing Territory under the administration of New Zealand;

7. *Commends* the professional and transparent conduct of both the February 2006 and the October 2007 referendums, monitored by the United Nations;

8. *Acknowledges* the decision of the General Fono that consideration of any future act of self-determination by Tokelau will be deferred and that New Zealand and Tokelau will devote renewed effort and attention to ensuring that essential services and infrastructure on the atolls of Tokelau are enhanced and strengthened, thereby ensuring an enhanced quality of life for the people of Tokelau;

9. *Also acknowledges* Tokelau's initiative in devising a strategic economic development plan for the period 2007-2010;

10. *Further acknowledges* the ongoing and consistent commitment of New Zealand to meeting the social and economic requirements of the people of Tokelau, as well as the support and cooperation of the United Nations Development Programme;

11. *Acknowledges* Tokelau's need for continued support from the international community;

12. *Recalls with satisfaction* the establishment and operation of the Tokelau International Trust Fund to support the ongoing needs of Tokelau, and calls upon Member States and international and regional agencies to contribute

to the Fund and thereby lend practical support to Tokelau in overcoming the problems of smallness, isolation and lack of resources;

13. *Welcomes* the assurance of the Government of New Zealand that it will meet its obligations with respect to Tokelau;

14. *Also welcomes* the cooperative attitude of the other States and territories in the region towards Tokelau, and their support for its economic and political aspirations and its increasing participation in regional and international affairs;

15. *Calls upon* the administering Power and United Nations agencies to continue to provide assistance to Tokelau as it further develops;

16. *Welcomes* the actions taken by the administering Power to transmit information regarding the political, economic and social situation of Tokelau to the Secretary-General;

17. *Also welcomes* the commitment of both Tokelau and New Zealand to continue to work together in the interests of Tokelau and its people;

18. *Requests* the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples to continue to examine the question of the Non-Self-Governing Territory of Tokelau and to report thereon to the General Assembly at its sixty-fifth session.

43. At the same meeting, the General Assembly also adopted resolution 64/106 on the implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples, paragraph 6 of which refers to Tokelau.

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Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples

Pitcairn

Working paper prepared by the Secretariat

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I. General

1. Pitcairn is a Non-Self-Governing Territory administered by the United Kingdom of Great Britain and Northern Ireland. The Territory is located midway between Australia and the continent of South America at 25° S and 130° W. It comprises four islands in the eastern Pacific Ocean: Pitcairn (the only inhabited island), Henderson, Ducie and Oeno. Henderson Island was designated as a World Heritage Site by the United Nations Educational, Scientific and Cultural Organization in 1988. It provides a habitat for endemic species of birds and plants and serves as a source of miro wood, used by Pitcairners for their carvings. The total area of the Territory is 35.5 sq km while that of Pitcairn itself is 4.35 sq km.[1] Access to Pitcairn is possible only by sea which, given its rocky coastline and cliffs, severely limits the points of disembarkation.

2. Pitcairn (named after Robert Pitcairn, a British midshipman who sighted it in 1767), was uninhabited when castaways from HMAV *Bounty* (9 mutineers and 18 Polynesians) arrived there in 1790. The majority of Pitcairn's inhabitants today can trace their ancestry back to those mutineers. Its population has been declining steadily since 1937, when it peaked at over 200. As at December 2009, the total population of the Territory was 53. Most of the population lives in Adamstown, the only settlement in Pitcairn. Many Pitcairn Islanders have strong links with New Zealand, and some are dual United Kingdom and New Zealand nationals. There are also links with French Polynesia, Pitcairn's nearest neighbour.

3. The official languages are English and Pitkern, which is a mixture of eighteenth-century English and Tahitian. The Seventh-day Adventist Church is the only church on the Island and a pastor from New Zealand is currently stationed there. The Territory enjoys a subtropical climate. Mean monthly temperatures vary from around 19 °C in August to 24 °C in February.

II. Constitutional, legal and political issues

4. On 11 February 2010, following consultations launched in September 2009, the new Pitcairn Constitution Order 2010 was introduced, updating the Pitcairn Order 1970 and Royal Instructions 1970 in respect of the role of the Governor and bringing the judicial system into the Constitution. It sets out, for the first time, rights and freedoms of the individual, provides for an Attorney General and establishes the authority of the Island Council. It clarifies the independent role of the Pitcairn courts and judicial officers, guarantees the independence of the public service, institutes an obligation to undergo an independent audit and makes provision for an Ombudsman. The Mayor of Pitcairn welcomed the Constitution as reflecting the new partnership commitment between Pitcairn and the United Kingdom.

Note: The information contained in the present working paper has been derived from published sources, including those of the territorial Government, and from information transmitted to the Secretary-General by the administering Power under Article 73 *e* of the Charter of the United Nations.

[1] *The Far East and Australasia* (Europa Publications, 2005).

5. The Governor is appointed by the Queen, acting on the advice of the Secretary of State for Foreign and Commonwealth Affairs of the United Kingdom, to whom he is accountable. In practice, the High Commissioner of the United Kingdom to New Zealand is appointed concurrently as Governor of Pitcairn, and the responsibility for the administration of the Island is accordingly vested in him. The current Governor of Pitcairn is George Fergusson.

6. After full consultation with the island community, a new governance structure was introduced on the Island in April 2009, which created four senior public sector posts (Division Managers), thereby boosting local administrative capacity. The structure provides for fair and transparent systems of Government job selection and performance management. The process of devolving more functions and responsibilities to the Island has begun but will be gradual given the limited human resources and appropriate skills of the Territory's tiny population. For the time being, some administrative functions will need to remain with the Pitcairn Islands Office, situated in Auckland, New Zealand.

7. Pitcairn Islanders manage their internal affairs through the Island Council, which was established by Local Government Ordinance. The Ordinance conferred upon the Council the duty, subject to orders and directions by the Governor, to provide for the enforcement of the laws of Pitcairn and empowered it to make regulations for the good administration of Pitcairn, the maintenance of peace, order and public safety and the social and economic advancement of the Islanders. Under the new government structure, the Island Council consists of seven voting members: the Island Mayor, elected every three years; the Deputy Mayor and four Councillors, elected every two years; and one nominated member appointed by the Governor. The Governor and his representatives are non-voting ex officio members. During elections in December 2007, the 38-strong electorate elected Mike Warren as its Mayor. On 11 December 2009, 44 Pitcairn voters elected their new Deputy Mayor and four Councillors.[2]

8. On 9 December 2009, the eleventh meeting of the Overseas Territories Consultative Council was held in London. According to the administering Power, at the request of overseas territory leaders, a forum was held on 8 December, the day before the meeting of the Consultative Council, to review the 1999 White Paper entitled "Partnership for Progress and Prosperity: Britain and the Overseas Territories", which established the principles that had guided the relationship between the United Kingdom and the territories since 1999. The Forum marked the first stage of a consultation process on the future of that relationship. The United Kingdom and the Non-Self-Governing Territories represented at the Consultative Council meeting, including Pitcairn, agreed, inter alia, to continue their discussions on the relationship between the United Kingdom and the overseas territories.

A. Electoral qualifications

9. In order to vote, persons must be at least 18 years old and, if not born on Pitcairn, must have been resident for three years (one year for spouses and two years for de facto partners). To stand for the Council, candidates must fulfil the same residence requirements but must be at least 21 years of age. For the posts of Mayor

[2] Available from http://ukinnewzealand.fco.gov.uk.

and Deputy Mayor, the qualifying residence is eight years and the minimum age is 25. The Island Secretary prepares the register of voters in October of each year, and elections are held on a day during the first two weeks in December.

B. Judicial system and human rights

10. An Island Magistrate is appointed from among the residents of Pitcairn. Other magistrates, legally qualified in a Commonwealth country, are appointed to preside over the Court in matters outside the powers of the Island Magistrate. The jurisdiction of the Court is limited to offences triable summarily, committal proceedings and certain inquiries, together with civil litigation up to a prescribed level. There is a right of appeal from the Court to the Supreme Court of Pitcairn, which is a superior Court of record and has jurisdiction in criminal and civil cases outside the competence of the Magistrate's Court. The Supreme Court is constituted by a judge, the Chief Justice or one of several puisne judges, with or without assessors. Further rights of appeal may be made to the Pitcairn Court of Appeal, comprising three judges, and to the Privy Council.

11. According to the administering Power, the Pitcairn Courts have jurisdiction in relation to human rights arising out of the laws in force in the Islands. The judiciary and the Governor have a corresponding jurisdiction to uphold and enforce human rights in the Islands.

12. Any violation of the civil or political rights of any person is justiciable by means of injunction and damages that may be awarded by the Supreme Court. That court has inherent power and jurisdiction to award compensatory damages and, in certain cases, punitive damages, as well as to give binding directions to secure the rehabilitation of such persons. In the circumstances of Pitcairn, the Governor, as holder of the highest executive office, and the Chief Justice, as head of the judiciary, are responsible within their respective spheres of authority for overseeing the implementation of human rights on Pitcairn.

13. The administering Power has further noted that the laws in force in the Territory, including those relating to human rights, are published by the Government of the United Kingdom and the Pitcairn Administration and are readily available to all on the Island through the Island Secretary's office. The Territory's reports to international bodies are prepared by the Government of the United Kingdom, drawing on information provided by the Governor and the Island administration.

III. Budget

14. According to the administering Power, in 2008-2009, expenditure for Pitcairn, supported by the United Kingdom Department for International Development, was roughly NZ$ 3.37 million, and income for the year was NZ$ 142,000. Budgetary aid of NZ$ 3.23 million was provided in 2008-2009 to help to meet the operating budget deficit. Significant development funds have been allocated for infrastructure projects by the Department for International Development and the European Union. The territorial allocation provided for Pitcairn under the tenth European Development Fund, which runs from 2008-2013, amounts to €2.4 million.

IV. Economic and social conditions

15. The principal source of income for Pitcairn's public economy has traditionally been the sale of stamps. Owing largely to a downturn in the stamp market, however, Pitcairn's financial reserves were exhausted in late 2003, and the Island now receives budgetary assistance from the United Kingdom Department for International Development. According to the administering Power, a scaled-down stamp trade continues nonetheless, with six new stamp issues released each year. Pitcairn coins (New Zealand mint) are another collectors' item.[3] Pitcairn's income has been recently supplemented by the sale of its Internet domain name, ".pn", which can be acquired for US$ 200 for the first registration, which covers two years, and US$ 100 for the annual renewal. Revenue is also generated from landing fees for tourist arrivals. The Department for International Development is supporting a scheme to improve the Island's infrastructure to increase the numbers of visitors to Pitcairn, with a view to securing the Island's future. This includes improved transport links and new attractions (a museum and an eco-trail have already been built, for example). A tourist board has been formed, and a new tourism website for the Islands has been launched.[4]

16. The private economy of Pitcairn is based on subsistence gardening, fishing and handicrafts, as well as the export (to French Polynesia, New Zealand, Japan and the United States of America) of dried fruit, honey and honey products. The Territory imports (mostly from New Zealand) fuel oil, machinery, building materials, cereals, milk, flour and other foodstuffs. The latter are ordered several months in advance and are obtainable through a cooperative store. A number of Pitcairn items are available directly from Pitcairn through the Internet. Bartering, mainly with passing ships, is an important part of the economy. According to the administering Power, the opening in the last two years of a number of small businesses (hairdressers, a takeaway food service, a massage and acupuncture treatment centre, two bakeries, a produce market, a mechanical and carpentry business, a fish order and delivery service and a café) has shifted the Territory towards an economy with a circulating money supply.[5]

A. Transport infrastructure

17. As mentioned in paragraph 1 above, access to Pitcairn is possible only by sea. Charter boats from Mangareva in French Polynesia currently run to the Island four times a year. The Government of the Pitcairn Islands has entered into an agreement with a new contractor with a view to providing improved freight and passenger services.[6]

18. Cruise ships also call during the season (December to March). Ships visiting the Island remain at anchor some distance from the shoreline and visitors are ferried to the Island in longboats. Pitcairn is critically dependent upon certain key items of

[3] See http://onlinepitcairn.com/information/monthlyfeature/dec2008.pdf.

[4] See "Government plan tourism trail to Pitcairn Island", available from www.telegraph.co.uk, 12 September 2009.

[5] Available from http://ukota.org/editorial/UKOTA_Spring_2009.pdf.

[6] Parliamentary records of the United Kingdom, 21 April 2009 (see http://www.publications.parliament.uk).

infrastructure, including the jetty, longboats and boat shed, and the road from the jetty up to the main settlement.

19. According to information provided by the administering Power, further work funded by the Government of the United Kingdom was undertaken in 2009 to enlarge and strengthen the Island's jetty and slipway. Funding was also provided for work on the main square, with a view to offering a more pleasant environment for community functions and a covered marketplace for the sale of curios to cruise ship visitors. More work is planned to extend the one sealed road that currently runs from the landing area to the Adamstown settlement. In 2008, construction was initiated on an alternative road down to the coast ending at Water Valley. The construction process has proven difficult as the Water Valley road is steeper than the regular road, and it has yet to be completed. All-terrain vehicles are the most common form of transport on the Island.

B. Communications and power supply

20. A new communications system funded by the United Kingdom Government in September 2006 provided the Island with telephone services in all homes, a reliable Internet system, limited television service and videoconferencing facilities.

21. As mentioned in previous reports, feasibility studies have been conducted on a new wind-diesel electricity generation system for the provision of a 24-hour electricity supply. Currently, diesel-driven generators provide 240-volt electric power for five hours in the morning and five hours in the evening.

C. Land tenure

22. With regard to land distribution issues, by the late 1970s, owing mainly to emigration, most of Pitcairn was owned by Pitcairn Islanders who no longer lived there. A Land Tenure Reform Ordinance was enacted at the end of 2006 to ensure that every Pitcairn Islander was entitled to an allocation of house, garden, orchard and forestry land "sufficient to meet their needs" for as long as they live on Pitcairn. An annual land tax payable on all land held by non-residents of the Territory, or on land held by residents "in excess of his or her reasonable needs", is aimed at ensuring that sufficient land is available for reallocation through the Land Court, upon application. Only Pitcairn Islanders by birth or naturalization, their children or grandchildren (having reached the age of 18 years) are eligible to apply for an allocation. They must be resident at the time of application and must intend to remain so. More detailed information on land distribution issues is provided in the 2005 working paper (A/AC.109/2005/10).

D. Employment

23. The population of the Territory is self-employed, but allowances are paid to members of the community who participate in local government activities. Under the new governance structure, introduced in April 2009, the majority of the population has at least one part-time government job. Public work, which is required by law of all men and women between 15 and 65 years of age, is partly a relic of the

society created by the mutineers and partly a necessity born of the basically tax-free economy. The most essential of the traditional public duties are concerned with Bounty Bay and the maintenance of public boats or road repair. There are no banking facilities, but undated personal cheques and traveller's cheques may be cashed at the Island Secretary's office.

E. Education

24. Education is free and compulsory for all children between 5 and 15 years of age. Pitcairn's only school was completely rebuilt in 2006; instruction is in English and is based on the New Zealand standard curriculum. The Education Officer, who is also the editor of the *Pitcairn Miscellany*, the Territory's only newspaper, is a qualified teacher recruited from New Zealand, usually for a one-year term. As a point of practicality, post-primary education is conducted at the school by correspondence courses arranged through the New Zealand Department of Education. Overseas secondary education is encouraged by the granting of bursaries, and a number of students have received secondary education in New Zealand with funding from the Government of Pitcairn. In November 2006, following a meeting of the Overseas Territories Consultative Council, the United Kingdom announced that beginning in 2007, citizens from the Overseas Territories would benefit from the home student fee rate at English universities. It is common for young people to leave the Territory at the age of 15 to attend secondary school in New Zealand. The continuing exodus of young people has been a concern to the Islanders for many years.

F. Health care

25. The Pitcairn Island Health Centre, funded by the United Kingdom Department for International Development, has an examination room, a dental clinic, an X-ray room and a two-bed ward for overnight patients. A general practitioner is stationed on the Island on a one-year contract, aided by an assistant nurse and a local dental officer, who also acts as an X-ray technician. The Government has also funded a social welfare programme, which includes a Family and Community Adviser, who is recruited from New Zealand on a one-year contract. In terms of general health, though the Islanders keep active by tending fruit and vegetable gardens and obtaining food from the surrounding ocean, obesity and diabetes are a problem.

G. Criminal justice

26. Allegations of child sex abuse, which came to light in 1999, led to a widespread police investigation resulting in 13 men being charged with a total of 96 offences. The trials of the seven on-island defendants were held on Pitcairn in 2004; six were convicted on a number of counts. Four men received custodial sentences.

27. The convicted men appealed to the Pitcairn Court of Appeal and subsequently to the Privy Council in London on a range of issues. These included the sovereignty of the Pitcairn Islands, the promulgation of English law on the Island, delay, and other issues that they claimed were an abuse of process. Their appeals were finally

dismissed by the Privy Council in a judgement handed down on 30 October 2006. Other appeals were heard in 2007, and although one count was dismissed for one of the offenders, the sentences were not substantively altered.

28. The trials of two more Pitcairn men (resident in Australia and New Zealand) took place in the Pitcairn Supreme Court sitting in Auckland in December 2006. Guilty verdicts were handed down on 9 January 2007 and the men were immediately taken to Pitcairn to serve their sentences. By November 2009, the sentence expiry dates of most of the men had passed, with the exception of those of three who are on parole and one who remains in home detention awaiting a parole decision on 26 November. Parolees are monitored by the Community Police Officer, who is seconded from the New Zealand police force.

29. In October 2008, the Government of the United Kingdom established a mechanism to compensate the victims of past child sex abuse on Pitcairn Island who had cooperated with the authorities in bringing the assailants to justice. The closing date for applications for compensation was 31 March 2009.[7]

V. Relations with international organizations and partners

30. Pitcairn is a member of the Secretariat of the Pacific Community, which is the oldest and largest organization in the 10-member Council of Regional Organizations in the Pacific, a consultative process that is headed at the political level by the Pacific Islands Forum Secretariat. The Secretariat of the Pacific Community provides technical assistance, policy advice, training and research services to 22 Pacific Island countries and territories in areas such as health, human development, agriculture, forestry and fisheries. All of these areas are critical to the people of the Pacific, who continue to face challenges owing to their remote locations and scarce resources, as well as new challenges involving decreasing food security and the effects of climate change.[8]

VI. Future status of the Territory

A. Position of the territorial Government

31. The most recent statement by a representative of the Island Mayor was made during the Pacific regional seminar on advancing the decolonization process in the Pacific region, held in Madang, Papua New Guinea, from 18 to 20 May 2004. The statement is summarized in the report of the Special Committee of 24 for 2004 (A/59/23).

B. Position of the administering Power

32. In its June 2008 report on the overseas territories of the United Kingdom, the House of Commons Foreign Affairs Committee urged the Government to ensure full consultation with the Pitcairn community on proposals for the Island's economic

[7] Available from http://www.government.pn/compensation.

[8] See http://spc.int.

development. In its response, the Government undertook to do so and acknowledged that partnership between the United Kingdom Government and the Island was essential to ensure that development on Pitcairn was sustainable.

33. In a statement made on 5 October 2009 before the Special Political and Decolonization Committee (A/C.4/64/SR.2), the representative of the United Kingdom said that where the people of one of the Overseas Territories had clearly and constitutionally opted for independence, his Government would help them to achieve it, while where instead a Territory wished to retain the link to the United Kingdom, it would safeguard that Territory's future development and continued security, holding regular annual political consultations with them. The representative also said that territorial constitutions governed the relationship between the United Kingdom and its Overseas Territories, and his Government regularly updated them, carefully considering all proposals for constitutional change received from the Territories. New such constitutions had come into force in 2006, 2007 and 2009.

34. The representative further stated that maintaining high standards of probity and governance was a cornerstone of British administration of the Territories. The Government of the United Kingdom was committed to allowing each Territory to run its own affairs responsibly as far as possible, but retained the right to intervene when developments in a Territory gave cause for concern or a Territory failed to fulfil international obligations.

C. Action by the General Assembly

35. On 10 December 2009, the General Assembly adopted resolutions 64/104 A and B without a vote, on the basis of the report of the Special Committee (A/64/23) and its subsequent consideration by the Special Political and Decolonization Committee (A/64/413). In section VIII of resolution 64/104 B, concerning Pitcairn, the General Assembly:

> "1. *Welcomes* all efforts by the administering Power that would devolve operational responsibilities to the territorial Government, with a view to expanding self-government;
>
> "2. *Requests* the administering Power to assist the Territory by facilitating its work concerning public outreach efforts, consistent with Article 73 *b* of the Charter of the United Nations and, in that regard, calls upon the relevant United Nations organizations to provide assistance to the Territory, if requested;
>
> "3. *Also requests* the administering Power to continue its assistance for the improvement of the economic, social, educational and other conditions of the population of the Territory and to continue its discussions with the territorial Government on how best to support economic security in Pitcairn."

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Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples

Cayman Islands

Working paper prepared by the Secretariat

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VI. Relations with international organizations and partners
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I. General

1. The Cayman Islands is a Non-Self-Governing Territory administered by the United Kingdom of Great Britain and Northern Ireland. The Territory is located some 180 miles west of Jamaica and about the same distance south of Cuba. It comprises three islands: Grand Cayman (76 square miles), Cayman Brac (15 square miles) and the adjacent and largely undeveloped Little Cayman (11 square miles). The capital, George Town, is located on Grand Cayman.

2. According to the Economics and Statistics Office of the Cayman Islands, the population of the Territory increased from 54,986 in 2007 to 57,009 in 2008, with an estimated annual growth rate of 3.7 per cent.[1] The population is about 56 per cent Caymanian and 44 per cent non-Caymanian.

3. The Cabinet of the Cayman Islands approved the planning, preparation and implementation of a population and housing census for the Cayman Islands on 26 March 2008. The next population and housing census in the Cayman Islands will be conducted in October 2010.

4. The British Overseas Territories Act, which came into force in 2002, grants the right to full British citizenship to all inhabitants of the Territories.

II. Constitutional, legal and political issues

5. The official name of the current constitution of the Cayman Islands is the "Caribbean and North Atlantic Territories, The Cayman Islands Constitution Order 2009", which recently replaced the "Caribbean and North Atlantic Territories, The Cayman Islands (Constitution) Order 1972". The new Constitution entered into force on 6 November 2009. This new Constitution embodies the enhanced relationship between the Territory and the Government of the United Kingdom proposed in the 1999 White Paper entitled "Partnership for Progress and Prosperity: Britain and the Overseas Territories".

6. According to information received from the administering Power, the successful adoption of the new Constitution was achieved after a long and arduous modernization initiative instituted in 2007 by the then Leader of Government Business, Kurt Tibbetts, and the People's Progressive Movement (PPM) government. The initiative comprised a four-part programme: (a) research to identify viable areas of constitutional reform and the publication of a public discussion paper; (b) consultation and public education on constitutional issues raised in that paper; (c) negotiations between the Cayman Islands and the United Kingdom on the modernization of the Cayman Islands Constitution; and a national referendum on constitutional reform.

7. The question posed to the electorate on "Referendum Day" on 20 May 2009 was: "Do you approve the draft Constitution which was agreed by the Cayman Islands Constitution Delegation and the Government of the United Kingdom on 5 February

Note: The information contained in the present paper has been derived from published sources, including those of the territorial Government, and from information transmitted to the Secretary-General by the administering Power under Article 73 *e* of the Charter of the United Nations.

[1] Information received from the administering Power, 29 December 2009.

2009 and tabled in the Legislative Assembly of the Cayman Islands on 11 February 2009?"

8. Of the 11,244 voters who cast referendum ballots, 62.66 per cent voted in favour of the draft Constitution.

9. The ongoing negotiations between the Governments of the Cayman Islands and the United Kingdom and the results of the referendum culminated in the new Constitution, which was approved by Queen Elizabeth II in Council on 10 June 2009 and came into force on 6 November 2009. The significant changes brought about by the Constitution include an enforceable Bill of Rights, Freedoms and Responsibilities, the establishment of the offices of Premier and Deputy Governor and an increase in the number of elected members from 15 to 18. In this regard, the Electoral Boundary Commission is mandated to review the boundaries of the electoral districts and submit a report to the Governor and the Legislative Assembly containing recommendations for changes in the boundaries.

10. The Constitution also provides for the establishment of a number of new entities, including a National Security Council vested with the authority to make recommendations to the Governor on matters relating to the internal security of the Islands. Provision is made for the appointment of a Judicial and Legal Services Commission to advise the Governor on appointments to and removal from office and on disciplinary action in relation to the holders of certain judicial and legal offices, including the Chief Justice, Grand Court judges and magistrates, the Attorney General and the Director of Public Prosecutions (which will assume responsibility for the conduct of all criminal prosecutions, a function previously exercised by the Attorney General).

11. Freedom of information is now enshrined in the Constitution and the independence and neutrality of the Complaints Commissioner is secured. Provision is also made for a Constitutional Commission, a Human Rights Commission and a Commission for Standards in Public Life. These institutions are intended to provide a system of checks and balances in the exercise of power by the executive and administrative arms of the Government.

12. Under the new Constitution, the Governor, who is appointed for four years by the British monarch, continues to be responsible for external affairs, defence, internal security and the civil service. The latest Governor, Stuart Jack, departed from the Cayman Islands on 2 December 2009. His successor, Duncan Taylor, was sworn in on 15 January 2010.

13. Justice in the Cayman Islands is administered at three levels — in the Summary Court (including the Youth Court), the Grand Court and the Court of Appeal. The Summary Court has civil and criminal jurisdiction. Appeals from the Summary Court lie to the Grand Court. The Grand Court is a superior court of record and administers the common law and the law of equity of England, as well as locally enacted laws and applied laws. Appeals from the Grand Court lie to the Cayman Islands Court of Appeal, composed of a president and not less than two judges of appeal. A judge of the Grand Court may exercise any of the powers of a single judge of the Court of Appeal. Further appeal lies, in certain circumstances, to the Judicial Committee of the Privy Council in London.

14. Until 2000, there were no formal political parties in the Territory and groupings known as the National Team, the Democratic Alliance and Team Cayman

acted as political organizations. Following the defeat of the National Team in the 2000 general elections, a majority of the Legislative Assembly members formed a political party, the United Democratic Party (UDP), on 5 November 2001. In 2002, the opposition formed a second party, the People's Progressive Movement (PPM) and in February 2005, the People's Democratic Alliance (PDA) was formed but is no longer active.

15. A general election was held on 20 May 2009. UDP won by a convincing margin over the incumbent PPM, winning 9 of the 15 seats in the Legislative Assembly. PPM won five seats and an independent candidate secured one seat. As a result, McKeeva Bush, leader of the UDP, replaced Kurt Tibbetts of PPM as the Leader of Government Business (now called the Premier). The next general election is due to be held in 2013.

16. On 9 December 2009, the eleventh meeting of the Overseas Territories Consultative Council was held in London. According to the administering Power, the overseas territory leaders requested that a forum should be held the day before the meeting to review the aforementioned 1999 White Paper entitled "Partnership for Progress and Prosperity: Britain and the Overseas Territories" which established the principles that have guided the relationship between the United Kingdom and the territories since 1999. The forum was the first stage of a consultation process on the future of that relationship. At the Consultative Council meeting, the United Kingdom and the Non-Self-Governing Territories represented, including the Cayman Islands, agreed, inter alia, to continue their discussions on the relationship between the United Kingdom and the overseas territories.

III. Budget

17. The principal sources of Government revenue are import duties, financial services, fees and stamp duties. According to the administering Power, in the 2008/09 financial year ended 30 June 2009 the fiscal performance of the Cayman Islands deteriorated primarily as the result of growth in Government expenditures caused by a number of extraordinary events, including Hurricane Paloma. In addition, revenues were negatively affected by the global economic crisis. During the 2008/09 financial year, total revenues fell by 7.7 per cent to CI$ 487.4 million, whereas total operating expenditure grew by 9.8 per cent to CI$ 568.5 million. This resulted in an overall operating deficit of CI$ 81.1 million.

18. In the 2009/10 budget documents, the Government is forecasting total operating revenues of CI$ 562.2 million with total operating expenses of CI$ 557.4 million, resulting in a forecast net operating surplus of CI$ 4.8 million at 30 June 2010. In terms of capital expenditures, the Government expects to spend some CI$ 156.9 million during the 2009/10 financial year. The capital expenditure programme includes investment in education, transport infrastructure, new Government offices and financial support in the form of capital investments in statutory authorities and Government-owned companies.

19. Under the Territory's public management reform process, a new Public Service Management Law and Regulations came into effect in 2007. The law constitutes the second stage of reform efforts, after the Public Management and Finance Law of 2001. All of the approximately 3,600 civil servants are affected by the reform

process, which has decentralized personnel management decisions and allows for performance-based assessments and incentives.

20. In its budget policy address of October 2009, the territorial Government expressed confidence that, in spite of the economic crisis, Cayman's financial services and tourism industries would help sustain a strong economy.

IV. Economic conditions

A. General

21. The Cayman Islands has one of the highest standards of living in the Caribbean. The economy is based on tourism and offshore financial services. For the year 2008, the per capita gross domestic product (GDP) was estimated at CI$ 48,294. Indicators for the first half of 2009 suggest that the Cayman Islands economy was on a declining path, with a GDP growth of -5.8 per cent compared to 2008.

22. Total imports for 2008 were CI$ 876.5 million, while total imports during the first half of 2009 were CI$ 368.8 million. Although imports outstrip exports by far, the trade gap is customarily offset by earnings from the tourism and financial services sectors. Exports in 2008 amounted to CI$ 13.8 million. The visible trade deficit was therefore CI$ 862.6 million, an increase from CI$ 837.9 million in 2007. Inflation for 2008 reached 4.1 per cent, owing mainly to the price of food, utilities, oil, petroleum products and manufactured goods.

23. The major trading partner of the Cayman Islands is the United States of America.

B. Agriculture, fisheries and the environment

24. According to information provided by the administering Power, the Department of Agriculture seeks to develop sustainable agricultural production in order to promote self-sufficiency and food security for the Cayman Islands and to preserve and protect the health of the Islands' plants and animals. Agriculture contributed 0.03 per cent to GDP in 2007 or CI$ 8.1 million. In 2009, the Department of Agriculture embarked on a series of interventions to help farmers build capacity and increase their productive capabilities. These included the importation of 97 cattle and 38 goats for genetic improvement purposes; ongoing participation in a programme to assist farmers in their efforts to improve and increase vegetable production through protected agricultural systems; and the launching of a comprehensive programme to increase production and yields of sweet potatoes in the Cayman Islands. Key aspects of the programme include the adoption of integrated pest management strategies, the acquisition of germplasm (planting material) and the establishment of a germplasm bank of both imported and local cultivars.

25. Conceptualized as an artisans' market, the Market at the Grounds was launched on 11 August 2007, with some 31 vendors. The number of vendors declined over the following weeks, stabilizing at about 20 for the remainder of 2007. There was an average of 13 core vendors per week in 2008 and 17 in 2009.

26. The Department of Environment has created a Sustainable Development Unit, which is working on identifying and assessing the closely associated vulnerabilities of global climate change, including a project aimed at developing a national climate change adaptation strategy. A marine conservation programme continues to make significant progress in identifying local and regional aspects of the important and threatened Caribbean species. The Department of Environment also completed a three-year Darwin project funded by the Department for Environment, Food and Rural Affairs of the United Kingdom, whose main outputs were detailed habitat maps of the marine and terrestrial environments of the three Cayman Islands and a national biodiversity action plan with bespoke action plans for vulnerable and threatened habitats and species, including the Nassau grouper and the Cayman parrot. Most of the recommended actions require the adoption of the draft National Conservation Law.

27. In 2009, the Department of Environment completed a national climate change issues paper in preparation for discussions on a national climate change adaptation strategy. Two relevant reports funded through Overseas Territories Environment Programme grants were completed by the Cayman Institute, in collaboration with Murray Simpson of Oxford University: "Sea level rise in the Cayman Islands" and "Cayman energy policy: background advisory document".

C. Tourism

28. Between January and September 2009, the tourism sector experienced declines in the number of stay-over and cruise ship tourists of approximately 13.1 per cent and 1.9 per cent respectively, as compared to the same period in 2008. The Islands continue to be adversely affected by the global financial crisis and, in particular, its impact on the United States market, where approximately 80 per cent of visitors to the Cayman Islands originate.

29. Approximately 1.4 million tourists visited the Cayman Islands between January and September 2009. Air arrivals fell by 13.1 per cent to 208,761 visitors, compared to the same period in 2008. Air arrivals at 31 December 2009 were projected at 263,841.

30. Approximately 1.1 million passengers visited the Cayman Islands by sea between January and September 2009. As September 2009, the number of tourists arriving by cruise ship had decreased by 1.9 per cent to approximately 1.14 million for the nine-month period. Group reservations, which primarily consist of business and group incentive travellers, also declined sharply during this period, owing in part to the impact of the 2008 global financial crisis in the United States.

31. The 2009 hurricane season was uneventful, and the Islands was not affected or threatened by any major storms.

32. In November 2009, the Government signed a memorandum of understanding with the Dart Enterprises Construction Company to design and build a cruise-berthing facility and cargo enhancement project. The new piers will allow mega cruise ships such as the *Oasis*, which has a capacity of 5,400 passengers, to dock in George Town.

33. In March 2009, the Cayman Islands Government formally tabled and launched the National Tourism Management Policy for the period 2009-2013.

34. The Government also launched the Cayman Islands Environmental Project for the Tourism Sector, a private-public partnership designed to improve the environmental performance of the attraction and accommodation sectors of the tourism industry. Four hotels and one attraction are involved in the pilot study, launched in February 2008. The compiling and submission of the Green Globe 21 benchmarking data for six of the properties will be completed in December 2009. The Department of Tourism is also assessing the feasibility of Green Globe destination certification for Little Cayman 2009.

35. The United States remained by far the largest market for the Cayman Islands. Visitors from the United States represented some 79.4 per cent of all visitor arrivals in the first quarter of 2009 and 80.9 per cent in the second quarter. Visitors from Canada and Europe also increased slightly in the second quarter, to 6.9 and 6.8 per cent respectively, compared to 6.7 and 6.6 per cent for the same period in 2008.

D. Financial services

36. The financial sector is one of the main pillars of the Cayman Islands economy, and the Islands remains among the top international financial centres in the world.

37. According to the Cayman Islands annual economic report for 2008 published in June 2009 by the territorial Government's Economic and Statistics Office, the Cayman Islands financial services sector exhibited the effects of the global economic crisis and all performance indicators weakened. Mutual funds and insurance continued to grow but at a lower pace compared to 2007. The insurance market was virtually stable, with the total number of insurance licence registrations rising by 1.1 per cent, from 793 in 2007 to 805 in 2008. The mutual funds industry slowed to single-digit growth of 4.9 per cent in 2008. Downturns were recorded in stock exchange listings (-9.7 per cent) and new company registration (-16.7 per cent), and banks and trusts continued to fall, by 1.1 per cent.

38. The October 2009 final report on the independent review of British offshore financial centres, commissioned by the Chancellor of the Exchequer in December 2008, recognized that, of the nine jurisdictions reviewed, the Cayman Islands demonstrated the highest level of compliance with the 16 "key and core" recommendations of the Financial Action Task Force on Money-Laundering. Similarly, in the third-round mutual evaluation report of the Cayman Islands by the Caribbean Financial Action Task Force, the Cayman Islands was noted as having a "strong compliance culture" with regard to combating financial crimes and terrorist finance. Further, the International Monetary Fund noted that there is "good evidence of a developed compliance culture" in the Cayman Islands and has deemed that the regulatory regime is generally in compliance with a broad range of international standards relating to banking (Basel Committee on Banking Supervision), insurance (International Association of Insurance Supervisors) and securities (International Organization of Securities Commissions). The Cayman Islands Monetary Authority was formally admitted as a full member of the International Organization of Securities Commissions in June 2009. In a similar vein, the July 2008 report of the United States Government Accountability Office noted that the Cayman Islands was the "most cooperative" among offshore jurisdictions. In August 2009, the Cayman Islands was added to the Organization for Economic Cooperation and Development (OECD) list of jurisdictions that have substantially implemented the internationally

agreed tax standards (the "white list"). In September 2009, the Cayman Islands was elected as a member of the OECD steering group at the Global Forum on Transparency and Exchange of Information for Tax Purposes.

E. Infrastructure, construction and transport

39. According to the Territory's third semi-annual economic report produced in June 2009, building permits amounted to CI$ 175.6 million, a decrease of 17 per cent from the previous year. The number of property transfers fell by 21 per cent and the total value decreased by over 43 per cent, a reflection of the global economic downturn.

40. The road network of the Cayman Islands, which has suffered extensive damage in recent years owing to the severe hurricane seasons, comprises approximately 785 kilometres of roadways. There has been considerable investment in the road networks to address this problem. A rolling four-year medium- to long-term national roads plan is in place.

41. International air services are provided between Grand Cayman and Canada, Cuba, Europe, Honduras, Jamaica and the United States, through more than 100 flights per week, while domestic airline services and charters operate between the three islands. In 2008, Cayman Airways launched direct flights to Washington, D.C., and Chicago to complement its other North American services, and in 2009, it introduced regular service to La Ceiba, Honduras.

42. The port of George Town is the main gateway for cruise ships carrying tourists to the Cayman Islands. The Islands is served by scheduled passenger liners and a number of locally owned or registered vessels that provide cargo services.

F. Telecommunications and utilities

43. As a leading international business centre, the Territory is dependent on telecommunications and utility services. According to the annual economic report for 2008, the total number of lines at the end of the year was 121,448, which represents a 7 per cent decrease, and 2.13 phone lines per resident. The consumption of utility services increased: water usage expanded by 0.9 per cent to 1,637.32 million gallons (from 1,622.30 million gallons in 2006/07), while electricity consumption increased by 12 per cent, to 510.64 million kilowatt-hours.

V. Social conditions

A. Human rights

44. The Territory is subject to several major human rights conventions to which the administering Power has acceded, including the European Convention on Human Rights. The Treaties and Conventions Unit within the Territory's Attorney General's Chambers oversees the extension of the international human rights instruments to the Cayman Islands.

45. The Cayman Islands Human Rights Committee has published a number of reports regarding individual human rights cases and provided advice to Government entities. During 2007/08, the focus of the Committee was on continuing the investigation of individual cases and human rights as part of the education syllabus. In 2009, the Committee devoted considerable time to debating the new Constitution and the Bill of Rights in particular.

46. The territorial Government continued to promote freedom of information in order to provide the public with access to official records. On 21 June 2007, the Freedom of Information Steering Committee was established and the Freedom of Information Law came into force on 1 January 2009. The Freedom of Information unit of the local government undertook a vigorous training campaign for government departments and statutory authorities. More information on the unit's work can be found at www.justice.gov.uk.

47. Also in early 2009, an independent Information Commissioner was appointed to monitor and enforce compliance with the Freedom of Information Law. Individuals who are denied access or who believe their request was mishandled may appeal to the Commissioner, who has the authority to review the matter, make all findings of fact and law and issue a binding decision. The Commissioner is also responsible for promoting general awareness of the Freedom of Information Law, the public's rights and the obligations of government under it. A team was also recruited to support the Commissioner and staff her office. Further information can be found at www.infocomm.ky.

48. In August 2008, stakeholders met in the Turks and Caicos Islands with the Caribbean human rights coordinator of a four-year project, carried out since 2007 by the Commonwealth Foundation, the Commonwealth Legal Education Association and the Commonwealth Human Rights Initiative. The project is funded by the United Kingdom Department for International Development and the Foreign and Commonwealth Office with a view to helping the overseas Territories of the United Kingdom conform to international standards concerning human rights obligations and to developing action plans. At the meeting, human rights capacity-building in the British Overseas Territories of the Caribbean, Pacific and South Atlantic project was discussed.

49. In July 2009, the Commonwealth Foundation's human rights capacity-building project was initiated in the Cayman Islands. The overall goal is to strengthen the understanding and observance of the individual rights contained in the International Covenant on Civil and Political Rights, the European Convention on Human Rights and the Convention on the Elimination of All Forms of Discrimination against Women in the above-mentioned Territories. To date, the Caribbean project coordinator has met with a number of stakeholders in the Islands, including representatives of several Government ministries and departments, the Human Rights Committee, the Governor's Office and various non-governmental organizations, to obtain their feedback on the preliminary report, which sets out the laws protecting human rights in the British Overseas Territories of the Caribbean, Pacific and South Atlantic. It is anticipated that, in early 2010, a round-table meeting will be convened with the relevant stakeholders and the local project contact, namely, the Office of the Attorney General, to finalize action plans for future project activities.

50. In September 2008, in response to questions from the *Caymanian Compass*, the Cayman Islands Human Rights Committee reiterated its position that it did not advocate the "horizontal" application of human rights in the constitutional modernization process, but that it was an issue the Cayman Islands should address. A horizontal application would mean that an individual could seek enforcement of human rights provisions against individuals or private entities, whereas with a vertical application, an individual could only seek enforcement of human rights provisions against the Government. On 6 October 2008, the Committee issued a press release stating that the working draft bill of rights had broad consensus with the non-governmental organizations involved in the process, even if there was not total agreement.

51. With the adoption of the new Constitution on 6 November 2009, the Cayman Islands has its first enshrined Bill of Rights, Freedoms and Responsibilities ("Bill of Rights"), the provisions of which may now be directly enforced by the local courts. However, the Bill of Rights will not enter into force until three years after the appointed day.

52. The Constitution also provides for the appointment of a Human Rights Commission, which is intended to replace the Human Rights Committee. However, apart from the direct reference to the Bill of Rights, the functions and responsibilities of the Commission are quite similar to those presently undertaken by the Committee, such as receiving and investigating complaints of breaches or infringement of any right or freedom contained in any human rights treaty in force in the Islands. The Commission is also empowered to issue independent reports relating to human rights and to promote the understanding and awareness of human rights. However, as with the Human Rights Committee, the Commission does not have the authority to represent or provide representation to parties to litigation in which human rights issues may arise nor can it act in a judicial capacity or make binding determinations upon any matter.

B. Labour and immigration

53. The Territory's continued dependence on foreign labour is evident from the following statistics from the Cayman Islands Compendium of Statistics 2008 compiled by the Economic and Statistics Office. In 2008, the population of the Islands was 57,009, 56 per cent of which was Caymanian. A total of 26,121 work permits were in effect in 2008; the number dropped to 24,000 in November 2009, owing to the global economic downturn and the fact that a considerable number of previous work permit holders had become permanent residents under the system outlined in the next paragraph.

54. In January 2004, a new approach to managing migration was implemented. A graduated system of rights now limits foreign workers (other than Government employees for the present time) to have work permits for a period of seven years. Workers with particular skills that are in demand in the Islands may be designated as "key employees" and granted work permits for a further two years. During this additional period, they would become eligible to apply for permanent residence at year eight. This approach seeks to create a population that is able to meet the future needs of the Territory — a population that is skilled, socially diverse and able to sustain economic stability and growth. Workers who are not selected as key

employees must leave the Islands after their seventh year, but may return and work again after an absence of one year. Persons who obtain permanent residence will become eligible for naturalization as a British Overseas Territories citizen after one year, after which they may apply for the status of a native-born resident ("belongership").

55. As a result of the global economic crisis and its effect on tourism and financial services (the two major pillars of the Islands' economy), the Cayman Government is in the process of implementing new incentives to encourage financial services sector companies to maintain a business presence in the Islands and to attract new businesses and investment. These incentives include special provisions on immigration requirements and fast-tracking work permit applications.

C. Education and cultural affairs

56. Education is compulsory for all resident children between 4 years and 9 months, and 16 years of age. The public education system caters to about two thirds of Caymanian children, with the remainder attending fee-paying schools. Tuition is free for Caymanians at the public primary and high schools. In addition, private schools provide primary and/or secondary education. All private schools are monitored by the territorial Government.

57. Two public and two private institutions provide tertiary education. The University College of the Cayman Islands, until 2004 known as the Community College, is owned by the territorial Government and is administered independently. The University College has seen a large increase in its number of students and also houses the new Civil Service College, which opened in September 2007. The Cayman Islands Law School, affiliated with the University of Liverpool in the United Kingdom, is also Government-owned, whereas the International College of the Cayman Islands and the St. Matthew's University are private.

58. In January 2008, an extensive review of the Cayman Islands national curriculum for schools was completed following wide-ranging consultations. This is the second of the Government's 10 strategies for reform, as outlined in the document entitled "National consensus on the future of education". In the 2009 Throne speech, the Governor stated that a key objective for the coming year was the advancement of a national reform agenda. Strategic elements included maximizing the potential of the new secondary schools as community and learning resources and enhancing technical and vocational education and training.

59. In 2008, six Cayman Island schools applied for candidate status within the International Baccalaureate initiative, making them the first State schools in the Caribbean to do so. A range of new and exciting examination options were offered to students in secondary schools, and innovative ways of introducing extended learning opportunities for post-16 students are planned for the George Hicks campus. As part of the overall national curriculum process, teachers and parents were provided with training and guidance on the use of levels within the national curriculum to measure and track student progress.

60. In the territorial Government's annual budget statement, delivered in the Legislative Assembly on 30 April 2008, the Leader of Government Business indicated that challenges facing the Government's capital funding programme had

necessitated the extension of the originally anticipated lead times of the three secondary campus construction projects. The planned construction of the Beulah Smith Campus for secondary students in West Bay and of a new primary school in George Town was subsequently put on hold. Work has nevertheless commenced on the secondary school campuses in George Town and the Eastern Districts and funding for the projects has been identified.

61. Disputes between the Territorial Government and the school contractors over payments appear to have been resolved and the new schools should be completed in 2010.

62. The Government continued to support the work of the Cayman National Cultural Foundation, the National Gallery of the Cayman Islands and the National Museum, which reopened after lengthy renovations.

D. Public health

63. The Health Services Authority is responsible for the provision of all public health care. In addition to general medical care, a wide range of specialist services is available locally. The Health Practice Councils are responsible for the registration of all health practitioners. There is one 124-bed Government-run hospital, which includes a state-of-the-art, fully staffed accident and emergency room, as well as a private 18-bed hospital, both in George Town. There is also an 18-bed Government-run hospital on Cayman Brac and there are several district health centres and clinics throughout the Territory. Health insurance is compulsory in the Cayman Islands.

64. The Territory's health-care system faces particular pricing challenges such as the cost of air ambulance services. Accordingly, the economic and financial viability of health services is a continuing concern. The strategic plan for 2009/10, which can be viewed at www.hsa.ky, recognizes the continued need to improve the revenues of the health sector.

65. In response to the influenza A (H1N1) global pandemic, the local health authorities embarked on a vigorous communication campaign. This consisted of public information campaigns on the symptoms of the virus and how to best avoid catching and spreading the flu. Schools in particular were targeted. The national flu pandemic plan has been updated and widely circulated and is available at www.hsa.ky. Stocks of the H1N1 vaccine were expected from the United Kingdom Department of Health in December 2009. A total of 112 cases have been confirmed since the first case, in June 2009.

66. On the occasion of World AIDS Day, 1 December 2009, the Minister of Health issued a statement calling for people to join together and challenge stereotypes and divisive beliefs through fostering a caring and protective environment for all. A candlelight vigil in memory of Cayman's AIDS victims was held at the Emshie Memorial Church. According to a Freedom of Information release from the Health Services Authority, there were 14 people living with AIDS in the Cayman Islands as at 31 December 2008. Thirty deaths have been attributed to the virus.

67. Recognizing the ill effects of tobacco, the Tobacco Law was passed in October 2008 and all public places were smoke-free effective 31 December 2009.

68. On average, 90 per cent of target children are immunized every year and the Pan American Health Organization has recognized the Public Health Department's efforts to eradicate vaccine-preventable diseases in the Cayman Islands by presenting it with the 2009 Surveillance Award. This is the second time the Islands has won the award, the first time being in 1999.

E. Crime and public safety

69. The Royal Cayman Islands Police Service is headed by a Commissioner, who reports directly to the Governor. This distinction from the legislature and the judiciary ensures the independence of law enforcement and contributes to good governance.

70. A Police Service report dated November 2009 showed a year-on-year increase of 9 per cent in the total number of crimes. This equates to 205 actual crimes. Serious crime also increased by 14 per cent, compared to 2008. A recent spate of gun crime related to drug usage has caused local concern and has led to an increase in the presence of armed officers on patrol. The Police Service nevertheless remains a predominantly unarmed service.

71. In 2009, the Police Service took delivery of two additional interceptor vessels, bringing the total number of boats in the marine unit to four. Construction has begun on a state-of-the-art marine base that will house police, immigration and customs officers. The delivery of a police helicopter is expected in early 2010.

72. The Bill of Rights places greater obligation on the Police Service to treat persons and detainees in particular with dignity and respect. To that end, the Police Service is reviewing its current estate and custody facilities to ensure greater compliance; it will also strengthen accountability by videotaping and audiotaping suspect interviews.

73. The Cayman Islands Monetary Authority is the body responsible for monitoring compliance with international financial standards in the Territory and reporting findings to the territorial Government on a regular basis.

F. Disaster preparedness

74. In 2004, Hurricane Ivan changed the way Cayman Government agencies prepare for natural disasters. In January 2007, the Government launched a new agency, Hazard Management Cayman Islands, to help residents prepare for and recover from a variety of disasters. The effectiveness of those efforts was apparent during Hurricane Dean in August 2007. Moreover, the Meteorological Office, the Lands and Survey Department and the National Hurricane Committee began to use a new storm surge model called the Arbiter of Storm. Hazard Management Cayman Islands is using WebEOC software for crisis information management. An annual hurricane exercise is conducted prior to the start of the hurricane season, which runs from 1 June to 30 November. A maritime security exercise was carried out in October 2007 and again in June 2009 to test Cayman's response to non-natural disasters. The Cayman Islands has a robust hurricane plan and a variety of other plans to deal with various disasters. A new National Emergency Operations Centre

with state-of-the-art facilities has been designed that would provide state-of-the-art facilities to better manage disasters.

75. Following Hurricane Paloma, a category 4 hurricane that damaged up to 90 to 95 per cent of homes and buildings in November 2008, residents of the damaged islands received financial relief from the private sector, which joined forces with the Government to provide monetary help. The recovery has been remarkable in that the electricity and telecommunication infrastructure has been replaced and other infrastructure facilities have recovered 100 per cent. The damage to the housing sector has seen a similar recovery with the rebuilding of the housing stock to 90-95 per cent pre Paloma levels.

VI. Relations with international organizations and partners

76. As a result of a request by the Government of the United Kingdom, the Economic Commission for Latin America and the Caribbean, by its resolution 640 (XXXII), decided to admit the Cayman Islands as an associate member of the Commission.

77. The Cayman Islands is an associate member of the United Nations Educational, Scientific and Cultural Organization and a member of the Universal Postal Union. The Territory is an associate member of the Caribbean Community and a member of the Caribbean Development Bank and the International Olympic Committee.

78. As a Non-Self-Governing Territory of the United Kingdom, the Cayman Islands is associated with, but not a part of, the European Union. As a member of the Caribbean Forum of African, Caribbean and Pacific States, the Cayman Islands agreed in December 2007 with the European Union on an economic partnership agreement.

VII. Future status of the Territory

A. Position of the territorial Government

79. The Territory's new Constitution is set out in detail in section II above.

B. Position of the administering Power

80. Information provided by the United Kingdom for inclusion in the report of the Secretary-General entitled "Implementation of decolonization resolutions adopted since the declaration of the First and Second International Decades for the Eradication of Colonialism" (A/64/70), stated, inter alia, that the United Kingdom's policy towards the Overseas Territories rested on the basis that it is the people of each Territory who determine whether they wish to stay linked to the United Kingdom or not and that the United Kingdom had no intention of imposing independence against the will of the people concerned. The statement also referred to the suggestion by some commentators that the United Kingdom should agree to allow Territories the three status options set out in General Assembly resolution 1541 (XV) for removing Territories from the United Nations list of Non-Self-

Governing Territories, namely, integration, independence or free association. According to the United Kingdom, its policy was not to agree to integration; nor was there any indication that any of the Territories were seeking that option. Its position on independence had already been set out. The concept of free association, as defined by the General Assembly, would mean that the Territory itself would draw up its Constitution free from the involvement of the United Kingdom, which would nonetheless retain all responsibility for the Territory without the powers necessary to meet its responsibilities for the Territories. That was not a position the United Kingdom was willing to put itself in.

81. The United Kingdom further pointed out that General Assembly resolution 1541 (XV) was not legally binding and that it had not voted in favour of the resolution. It considered the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples and the list of Non-Self-Governing Territories outdated and remained of the view that none of its Overseas Territories should remain on the list.

82. As reflected in a statement made on 5 October 2009 to the Special Political and Decolonization Committee (Fourth Committee) of the General Assembly (see A/C.4/64/SR.2), the representative of the United Kingdom said, inter alia, that where the people of any of its Overseas Territories clearly and constitutionally opted for independence, the United Kingdom would help them achieve it. Where instead a Territory wished to retain links, the United Kingdom would safeguard that Territory's future development and continued security and would hold regular annual political consultations with it. Meanwhile, the respective territorial constitutions governed the relationship between the United Kingdom and its Overseas Territories and were regularly updated, following careful consideration of all proposals for constitutional change received from the Territories. A number of such new constitutions had come into force since 2006.

83. The United Kingdom stated that maintaining high standards of probity and governance was a cornerstone of British administration of the Territories. The United Kingdom Government was committed to allowing each Territory to run its own affairs responsibly as far as possible, but when developments in a Territory gave cause for concern or a Territory failed to fulfil international obligations, the United Kingdom would not hesitate to raise the matter with the territorial Government and intervene where necessary.

84. Further, the British Government continued to encourage all its Overseas Territories to meet internationally recognized Group of 20 standards to ensure sound financial regulation, resilient public finances and responsible debt management.

C. Action taken by the General Assembly

85. On 10 December 2009, the General Assembly adopted, without a vote, resolutions 64/104 A and B, based on the report of the Special Committee transmitted to the General Assembly (A/64/23) and its subsequent consideration by the Fourth Committee. Section V of resolution 64/104 B concerns the Cayman Islands, the operative paragraphs of which read:

"*The General Assembly*,

...

"1. *Welcomes* the finalization of a new draft constitution in February 2009 and its subsequent acceptance by referendum in May 2009;

"2. *Requests* the administering Power to assist the Territory by facilitating its work concerning public awareness outreach efforts, consistent with Article 73 *b* of the Charter of the United Nations and, in that regard, calls upon the relevant United Nations organizations to provide assistance to the Territory, if requested;

"3. *Welcomes* the efforts made by the territorial Government to address cost-of-living issues in various economic sectors."

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Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples

Bermuda

Working paper prepared by the Secretariat

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I. General

1. Bermuda is a Non-Self-Governing Territory administered by the United Kingdom of Great Britain and Northern Ireland. The Territory is located in the western part of the Atlantic Ocean, about 917 kilometres east of the nearest continental shore, the North Carolina coast of the United States of America. The Territory, covering 57 square kilometres, consists of 8 major and 130 smaller islands. The largest is Great Island, or Main Island. Hamilton, the capital, and St. George's are the two main towns.

2. Bermuda was discovered by Spanish navigator Juan de Bermudez in 1505. Bermuda remained uninhabited until 1609, when it was settled by a group of English colonists; in 1610 the first slaves were brought to work on the farms and to dive for pearls. The islands were administered under charter of the Virginia Company and successor companies until the arrangement was dissolved in 1684 and government was fully assumed by the Crown. In 1620, the first Parliament was held after the Crown granted the colony limited self-government. In 1968, Bermuda was granted internal self-government and a new Constitution.

3. The year 2009 marked the 400th anniversary of continuous human settlement in Bermuda. To mark the event, in October 2009 the Ministry of Culture and Social Rehabilitation established a cultural legacy fund with $100,000 as seed funding. According to the Minister of Finance, the Fund will be used to promote, transform and preserve the art and culture of Bermuda through support of cultural initiatives of national significance.[1] Funding for the initiative is a partnership effort between the Government of Bermuda and private contributors. For fiscal year 2009/10 the Government has earmarked a maximum contribution of $2 million to match contributions made by the private sector. There was an excellent response from members of the general public, who submitted numerous proposals by the deadline of 9 November 2009. All proposals have been reviewed and vetted, and the Minister of Culture and Social Rehabilitation was expected to make the final decisions and announcement of recipients in early 2010.[1]

4. In 2008, the population of Bermuda was estimated to be 64,209, up from 62,059 recorded during the 2000 census. According to the 2000 census, 55 per cent of the population was black and 34 per cent white, with the remaining 11 per cent consisting of persons of mixed or other races. The average annual growth rate between the 1991 and 2000 census periods was 0.66 per cent. In 2009, the estimated population increased to 64,395.[1]

5. The basis of the relationship between the Government of the United Kingdom and its Non-Self-Governing Territories is set out in a White Paper, entitled "Partnership for progress and prosperity: Britain and the Overseas Territories", published in March 1999 (see A/AC.109/1999/1 and Corr.1, annex). The British Overseas Territories Act 2002 granted the right of British citizenship to "British Overseas Territory citizens".

Note: The information contained in the present working paper has been derived from published sources, including those of the territorial Government, and from information transmitted to the Secretary-General by the administering Power under Article 73 *e* of the Charter of the United Nations.

[1] Information transmitted by the administering Power, 29 December 2009.

II. Constitutional, legal and political issues

6. The Constitution of Bermuda, adopted in 1968, was amended in 1973, 1979, 1989, 2001 and 2003. The Governor (and Commander-in-Chief) is appointed by the United Kingdom, after consultations with the Territory's Premier. The Governor is responsible for defence, external affairs, internal security and the police. The current Governor of Bermuda, Sir Richard Gozney, took office in December 2007.

7. The Territory has a parliamentary system of government, comprising a Governor, a Deputy Governor, a Cabinet and a bicameral legislature, with a House of Assembly of 36 members directly elected for a five-year term and a Senate of 11 appointed members. Five members of the Senate are appointed by the Governor on the advice of the Premier, three on the advice of the leader of the opposition and three by the Governor at his discretion. The Governor appoints as Premier the member of the House of Assembly who appears to him or her to be best able to command the confidence of a majority of the members of that House. The Premier heads a Cabinet that may not comprise more than 14 members of the legislature.

8. Bermuda's law and legal system are based on English common law and principles of equity, English statute law (in force since 1612) and acts of the Bermuda Parliament passed since then. The judiciary is a separate body from the Government; its members are not elected but rather are appointed on the advice of the Chief Justice. There are three courts presiding in Bermuda, namely the Magistrates' Court, the Supreme Court and the Court of Appeal.

9. Over the years, there have traditionally been two official political parties in the Territory. The Progressive Labour Party was formed by the black majority in 1963. The United Bermuda Party was formed in 1964, largely by the white population. In September 2009, six members of the United Bermuda Party, including three parliamentarians, a senator and the party chairman, resigned, saying they had been pushing in vain for change within the United Bermuda Party since the 2007 general election.[2] They have launched a new political party, the Bermuda Democratic Alliance.

10. General elections must be held every five years. In the 1998 general election, the Progressive Labour Party defeated the United Bermuda Party and took power for the first time in the 30 years since the party system began in 1968. The party was re-elected for a second five-year term in 2003. The current Premier, Ewart Brown, took office on 30 October 2006, following his election as the leader of the governing Progressive Labour Party, and was re-elected in the latest general election, held on 18 December 2007, with the Progressive Labour Party retaining its majority of 22 of the 36 seats in the House of Assembly.

11. Voters in the general and other elections or referendums must be 18 years of age and Bermudian by birth or status, or non-Bermudian long-term residents who are citizens of the British Commonwealth and have registered to vote annually since 1979.

12. In 1995, a referendum was held on the question of independence. Of the 58.8 per cent of eligible voters who participated, a small number by Bermudian standards, 73.6 per cent voted against independence. The then-opposition party had

[2] See BBC Caribbean, "Bermuda's opposition future doubtful", 15 September 2009.

organized a boycott of the referendum among supporters of independence, arguing that the issue should be resolved by general election.

13. While always an important issue in Bermuda, the question of independence has not predominated in Bermuda's recent political scene to the extent that it has at previous times. An unofficial opinion poll, carried out by a private company in early January 2010, indicated that 74 per cent of people did not want to sever ties with the United Kingdom (up from 63 per cent in a 2007 poll), 20 per cent were in favour (down from 25 per cent) and 6 per cent undecided (down from 12 per cent).[3]

14. In its report issued in August 2005,[4] the Bermuda Independence Commission noted that the racial question and the implications that flowed out of its consideration had been an ever-present, although seldom acknowledged, feature of the Bermudian social, economic and political landscape throughout Bermuda's history. As previously reported, racial divisions in Bermuda have, in significant measure, played out in the support for, or opposition to, independence and the method to be used to ascertain the wishes of the population on that question.

15. The ruling Progressive Labour Party wants the issue of independence settled in the context of an election, while the opposition United Bermuda Party favours a referendum. On that question, the Bermuda Independence Commission concluded that it was incumbent upon both political parties to share the merits of each method.

16. On 9 December 2009, the eleventh meeting of the Overseas Territories Consultative Council was held in London. According to the administering Power, at the request of Overseas Territory leaders, this year a forum was held the day before the Consultative Council, on 8 December, to review the aforementioned 1999 White Paper, "Partnership for progress and prosperity", which established the principles that have guided the relationship between the United Kingdom and territories since 1999. The Forum was the first stage of a consultation process on the future of that relationship. At the Consultative Council meeting, the United Kingdom and the Non-Self-Governing Territories represented, including Bermuda, inter alia agreed to continue their discussions on the relationship between the United Kingdom and the Overseas Territories.

III. Budget

17. Bermuda's fiscal year begins in April. The 2009/10 budget remains unchanged from the previous year, at $1.1 billion. The national budget statement for 2010/11 was not yet available at the time of writing of the present report; it was expected slightly later than usual in order to allow more manoeuvrability given the economic environment, according to the Government.[5]

18. The Governor, on 6 November 2009 in his traditional annual Speech From the Throne, noted the Government's able management of the impact of global economic conditions on the island.

[3] See *Caribbean Daily News*, "Opposition to cutting ties with Britain grows", 27 January 2010.
[4] See "Report of the Bermuda Independence Commission", August 2005.
[5] See Sam Strangeways, "'More manoeuvrability' given as explanation for later budget date", *Royal Gazette*, 30 January 2010.

IV. Economic conditions

A. General

19. The official currency of Bermuda is the Bermuda dollar. On a one-to-one basis, the Bermuda dollar is pegged to the United States dollar.

20. The economy of Bermuda continues to be based primarily on providing financial services for international business and on tourism. A number of reinsurance companies relocated to the island following the September 2001 terrorism attacks, and still more relocated after Hurricane Katrina in August 2005, contributing to the expansion of an already robust international business sector. Most capital equipment and food must be imported. The industrial sector of Bermuda is small, although construction continues to be important. Agriculture is limited, as only 20 per cent of the land is arable.[6]

21. The global economic slowdown has affected Bermuda, and initial estimates indicate a widening of the fiscal deficit, as revenue fell short of budget targets and capital spending boosted total expenditure. In November 2009, it was announced that Government revenue projections were missed in the first quarter (April-June 2009) by as much as 8 per cent, resulting in a revenue shortfall of $20 million. Although Government spending was reported to have been on target during that period, the shortfall prompted the Government to make expenditure cuts. A savings of around 20 per cent was sought on current budgets, and public-sector recruitment was frozen, with the aim of protecting capital and social spending for the remainder of the fiscal year.[7]

B. Financial services

22. Bermuda is one of the world's leading offshore financial and business centres and is among the major jurisdictions worldwide in large-scale insurance and reinsurance. There is no central bank in the Territory. The Bermuda Monetary Authority is the regulatory authority for banks and trust companies.

23. In August 2009, the Government of Bermuda passed a series of legislative amendments to improve the efficiency of international business in Bermuda. Over the past several years, the international business sector has had the highest number of new jobs of all sectors of the economy. In 2008, however, the increase in jobs was minimal, and the numbers are expected to be similar for 2009. Nevertheless, it is anticipated that international business will continue to drive the economy and provide the largest positive contribution to gross domestic product for the foreseeable future.

24. There were 15,485 international companies registered in Bermuda at the end of the third quarter of 2009, a decline of 417 companies, or 2.9 per cent less than the total at the end of the third quarter 2008. Over the first nine months of 2009,

[6] See Central Intelligence Agency, *The World Factbook*. Available from https://www.cia.gov (accessed 15 February 2010).

[7] See Economist Intelligence Unit, Bermuda country report, January 2010. Available from www.eiu.com.

international business entities paid $1.7 billion to residents and local businesses, which remained unchanged from the first three quarters of the previous year.[7]

25. In total, 441 new exempted companies were incorporated during the first nine months of 2009, compared with 814 incorporated during the first nine months of the year before, representing a decline of 45.8 per cent. At the end of the second quarter of 2009, the total net asset value of collective investment schemes was $154.62 million, a loss of 34.3 per cent year over year. There was also a decrease of 345 mutual funds and unit trusts registered in Bermuda in the 12 months ending September 2009.[7]

26. In November 2007, the Foreign Affairs Committee of the United Kingdom House of Commons began a comprehensive inquiry into standards of governance, transparency and accountability, the role of governors and regulation of the financial sector for all 14 territories. A team undertaking a review of British Crown Dependencies and Overseas Territories business jurisdictions visited Bermuda in March 2009.[8]

27. On 8 June 2009, following Bermuda's signing of its twelfth tax information exchange agreement, the Organization for Economic Cooperation and Development (OECD) updated its progress report to include Bermuda with other jurisdictions that had substantially implemented the internationally agreed tax standard. In early September, Bermuda was also elected vice-chair of the OECD Global Forum on Transparency and Exchange of Information for Tax Purposes, which is charged with reviewing implementation of tax information exchange agreements.

C. Tourism

28. According to the administering Power, total visitation to the island for the first three quarters of 2009 was down marginally by 1.5 per cent, with a total of 457,233 visitors arriving on the island during this time. Air arrivals, having been strongly affected by the worldwide economic slowdown, declined around 12 per cent in the first nine months of 2009, with 187,018 visitors flying to the island during this period. The third quarter began to show signs of recovery, until late August when Bermuda was hit with the threat of Hurricane Bill. This threat led to cancelled flights and numerous visitor trip cancellations. The effect of this storm resulted in a 13 per cent decline in air arrivals for the month of August. Cruise visitations for the first nine months of the year increased by 8 per cent, however. This is a result of the completion in May 2009 of the new Heritage Wharf cruise pier in Dockyard, which saw an increase in larger ships traveling to the island.[7]

29. On 23 April 2009, the Premier and the United States Secretary of Homeland Security signed an agreement whereby passengers and crew of private aircraft departing Bermuda would be pre-cleared for United States customs.[9] The pre-clearance for non-commercial aviation is viewed as enhancing the attractiveness of Bermuda's tourism and financial services. A large number of visitors arrive on private flights, which is in line with Bermuda's "platinum period" strategy efforts for tourist development, promoting high-end tourism.

[8] See Alex Wright, "Foot: Bermuda aware of top financial issues", *Royal Gazette*, 20 March 2009.
[9] See www.dhs.gov/ynews/releases/pr_1240515431927.shtm.

30. In July 2009, a large hotel chain announced plans to open its first hotel in Bermuda. The new hotel, scheduled to open in 2013, will be the first major luxury hotel to open in downtown Hamilton in more than 50 years. In August 2009, the Premier announced that a new digital marketing strategy had resulted in large increases in visitors to the Bermuda Tourism website. Visits to the website were up 82 per cent for the second quarter of 2009 compared with the same period in 2008. About 301,000 hits were logged.[10]

D. Construction

31. Bermuda's construction industry is still fairly robust. The Government is providing stimulus to this sector with projects such as the $78 million Magistrates' Court/Hamilton police station, which is expected to be completed early in 2011. The past year saw the widening of Pender Road and the addition of an extra lane on Cockburn's Bridge, important projects designed to accommodate safely the large numbers of visitors expected in the west end as a result of the opening of Heritage Wharf in Dockyard. Additionally, there has been the recent completion of the Tynes Bay water treatment facility, a seawater reverse osmosis plant. The construction sector is anticipating a boost when promised major construction projects in the hotel industry commence in the near future. The number of jobs in the construction industry rose by 2.9 per cent to a total of 3,649, an increase of 103 jobs compared with 2008.[1]

E. Transport and communications

32. Bermuda has very high-standard transport and telecommunications sectors. There is a network of about 225 kilometres of paved public roads and 400 kilometres of private roads. Bermuda also has one of the highest road traffic densities in the world. Restrictions on car ownership to one per household, coupled with a policy of allowing no rental cars, have resulted in the development of an excellent and well-utilized group transportation system.

33. Bermuda has its own air and ship regulatory agencies. Both the Department of Civil Aviation and the Department of Maritime Administration maintain registries, which are considered to be as stringent as those of comparable agencies in the United Kingdom and the United States. Automation of the Aircraft Information and Records System will be further developed during fiscal year 2010/11 to augment the processes for continued growth of the register of aircraft.[1]

34. The L. F. Wade International Airport in Bermuda has undergone significant improvement since 2000. The pavement rehabilitation work on the runways, taxiways and aprons at the airport, for which $18.0 million was allocated, was completed in 2009.[1] There are numerous regular commercial flights between Bermuda and a number of destinations, such as Boston, New York, Miami, Atlanta, Newark, Philadelphia, Toronto, London and Washington, D.C. During the summer season, additional carriers are added to accommodate other gateway locations. There

[10] See *South Florida Caribbean News*, "Bermuda's tourism digital marketing strategy takes hold, numbers up sharply", 17 August 2009. Available from www.sflcn.com.

has also been a marked increase in general aviation traffic over the years to meet the demand of the international business sector.

35. The international and domestic information and communications technology infrastructure of Bermuda is highly advanced and accessible to the entire population. The island has four international telecommunications service providers, three of which have their own transatlantic facilities, which are supplemented by satellite facilities for special services and emergency communications. Domestic information and communications technology services across the island are provided by a total of nine service providers. During 2009, Bermuda's three mobile telecommunications service providers completed the transition to the third generation of international standards for mobile telecommunications, commonly referred to as 3G. This new set of standards provides for greater data transmission speeds, which are required to support the increased proliferation of mobile multimedia applications and services.

V. Social conditions

A. General

36. Various socio-economic inequalities continue to exist in Bermuda. According to the administering Power, the Territory continues to address the issue of racial inequality through the publication of statistics on workforce demographics, education and training and through legislation.

37. According to the Governor's Speech from the Throne, the Government intends to launch a national service initiative, which would require young Bermudian men and women to participate in mentoring Bermuda's youth and committing to the concept of work experience in order to equip them with the skills needed for successful future employment.

38. In November 2008, the Ministry of Culture and Social Rehabilitation launched a child day-care allowance programme to assist low-income families with the cost of day care for children under 4 years of age. To date, over 700 families and over 750 children have benefited from the programme, which will continue during fiscal year 2010/11, and $4.8 million has been requested for that purpose.

B. Labour

39. The Department of Labour and Training has expanded its summer employment programme, doubling its spending on salaries paid to summer students and hiring 47 per cent more summer students year over year. The Department of Labour and Training has also made progress on the implementation of a "one-stop career centre" to provide a single venue where individuals can explore career options and receive job placement assistance and training and referrals for further training. The Department expects to launch the "one-stop career centre" in April 2010, budget permitting. The so-called "hustle truck employment programme" will continue to partner with the Bermuda Housing Corporation and the Department of Labour and Training to provide a wider range of training opportunities to enhance the skills of workers and to improve their chances of securing full-time employment. The

National Training Board has successfully launched national certification and apprenticeship programmes, both of which are aimed at upgrading the skills of the workforce. The Department of Labour and Training is moving ahead with implementing its workforce development initiative and has hired a consultant to lead this most important programme and see that it is implemented.[11]

40. A 2008 annual review of the workforce, undertaken and published by the Commission for Unity and Racial Equality, reinforced the view that representation of black Bermudians in the workforce remained significantly skewed, and that not enough was being done to address the inequality. While blacks represent more than half the workforce (54 per cent), they continue to be underrepresented in senior/executive and mid-management positions and income levels and overrepresented in non-professional employment levels. The report noted that business leaders attributed the low percentage of black employees in senior positions to the lack of educational qualifications among black employees.

C. Education

41. Education in Bermuda is compulsory for all children from 5 to 16 years of age and is free in Government schools. Approximately 57 per cent of Bermudian students of compulsory school age attend public schools. The public school system includes 2 senior secondary schools, 5 middle schools, 18 primary schools, 10 preschools, 1 special school and 1 alternative programme. There are two private schools which offer early primary education, as well as a number of other private schools for all ages. Those institutions receive no Government funding, but the Government has the authority to determine the examinations to be taken in the private schools as a means of ensuring appropriate academic standards.[11]

42. Graduates of senior school are prepared for further studies at Bermuda College or at institutions abroad, mainly in the United States, Canada and the United Kingdom. The literacy rate in the Territory is considered high: 98 per cent of males and 99 per cent of females 15 years of age and over can read and write. Since 2007, citizens from the Overseas Territories have benefited from the home-student fee rate at British universities.[12]

43. As previously reported, the 2000 census revealed a serious disparity between the educational circumstances of white students, three quarters of whom attend private schools, and black students, most of whom are enrolled in the Government educational system. The quality of education in Bermuda public schools has been a frequent issue in the media, with only about half of the students attending public schools graduating from high school in recent years. In 2009, however, 80 per cent of the students who had entered senior school four years prior did graduate.

44. According to information provided by the administering Power, Bermuda College is the main educational facility that offers tertiary education in Bermuda. The College receives a grant from the Government of Bermuda, and its operations are overseen by a board of governors. As of September 2008, students who entered

[11] See www.bermuda-online.org/educate.htm.

[12] See communique of the eighth meeting of the Overseas Territories Consultative Council, 21 and 22 November 2006. Available from www.fco.gov.uk.

the College from a local senior school and who enrolled in an approved course of study no longer had to pay tuition fees.

45. The Governor, in his Speech from the Throne, indicated that, as part of its ongoing reform effort, the Ministry of Education intended to strengthen assessment of at-risk students, improve the quality of career guidance, implement specialized instruction for boys in the public school system, recognizing their special needs, and review the certification of teachers to ensure high standards. He also indicated that Portuguese language classes would begin in the 2010/11 school year.

D. Health

46. According to information provided by the administering Power in 2007, population projections continue to indicate that two major demographic phenomena will dominate Bermuda in future years: an ageing population and a low fertility level. Life expectancy at birth is 80 years for women and 75 years for men. As previously reported, however, life expectancy among blacks in Bermuda is nearly four years less than for whites.[13] Chronic diseases continue to account for a disproportionate number of health challenges in Bermuda. Government efforts towards promoting wellness and fitness and aggressive programmes to curb lifestyles that lead to diabetes, hypertension and obesity continue to be a major focus of the Ministry of Health.[14]

47. According to the Governor's 2008 Speech from the Throne, too little attention has been paid to the mental health of Bermudians. In 2009, the Mid-Atlantic Wellness Institute, Bermuda's mental health hospital, signed a memorandum of understanding with the Department of Corrections establishing the Institute as having overall responsibility for mental health in Bermuda's correctional facilities. In August, the Bermuda Hospitals Board presented a draft mental health plan to the Ministry of Health. The plan sets out a framework for a social model of care. Consultation is also concluding on amendments to the Mental Health Act 1968 in order to provide a framework for persons who end up before the courts but who may suffer from a mental illness.[1]

48. The Ministry of Culture and Social Rehabilitation is initiating a juvenile and family treatment system to provide for the therapeutic treatment of dysfunctional families, and is in the process of hiring the required staff for the juvenile and family treatment system. An associated project is the "structured decision-making model", which allows for consistency in assessing the risk level of all families involved with the Department of Child and Family Services. A psychoeducational programme designed to help young people to address behavioural concerns has been proving to be beneficial.[1]

49. Hospitalization insurance is mandatory for all employed and self-employed persons in Bermuda. In April 2009, the Government introduced FutureCare, a comprehensive and affordable insurance plan for seniors.[1] Nonetheless, insurance coverage is nearly universal, and some persons are insured by more than one provider.

[13] See "Bermuda health systems and services profile", report prepared for the Ministry of Health and Family Services of Bermuda by Marcelo Ramella, April 2005.

[14] See 2008 Speech from the Throne, 7 November 2008. Available from www.gov.bm.

E. Human rights and related issues

50. As previously reported, the Commission for Unity and Racial Equality was aimed at the elimination of racial discrimination and institutionalized discrimination in Bermuda. According to the Governor in his Speech from the Throne, the programme will undergo a thorough review, given the perceived lack of progress. He reiterated that a modern solution with an appropriate policy framework had to be found to address the historical inequities, which he said had become more than a trend in Bermuda.

51. The following major international human rights instruments apply in Bermuda: the European Convention on Human Rights; the International Covenant on Economic, Social and Cultural Rights; the International Covenant on Civil and Political Rights; the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; the Convention on the Rights of the Child; and the International Convention on the Elimination of All Forms of Racial Discrimination.

52. In the context of the Overseas Territories Consultative Council meeting held in London on 28 and 29 October 2008, the territorial Government agreed upon the target date of October 2009 to achieve the extension of International Labour Organization Convention 182 on the worst forms of child labour and of the Convention on the Elimination of All Forms of Discrimination against Women, and to consider the options available to meet international obligations on sexual orientation. The Government is currently reviewing the implications of both instruments, including the possible need to amend existing legislation.[1]

F. Crime

53. The Bermuda Police Service has an establishment of 467 officers and 70 active Reserves. According to the administering Power, Bermuda has experienced an escalation of gang-related violence, resulting in a more than 50 per cent increase in the number of confirmed firearms incidents occurring in 2009. The Bermuda Police Service launched the "Operation Safer Streets" initiative to address crime challenges related to guns, gangs, drugs and violence. This targeted, intelligence-led approach has resulted in greater police presence in geographical hot-spot areas and a sharp focus on identified "prolific priority offenders". Visibly effective policing actions have resulted in record-setting performance levels for the Bermuda Police Service: arrests increased 60 per cent; drug enforcement activity increased almost 40 per cent; and serious assaults were reduced by 28 per cent. The Bermuda Police Service reorganized to move existing resources within the organization to enable resources for "Operation Safer Streets" to become a permanent feature of their policing plan. The adoption of the "prolific priority offender" approach recognizes that the causes of crime are complex and that a holistic multiagency and partnership approach is required to focus resources on those who present the greatest threat to the community across the entire spectrum of the problem throughout three distinct phases: prevent and deter; catch and convict; and rehabilitate and resettle. The Ministry of Labour, Home Affairs and Housing is already looking towards long-term solutions, and the Bermuda Police Service will play a full active role, as appropriate, to assist.[1]

54. An anti-gang initiative, first implemented during 2006, continues to be developed and applied, and is aimed at obtaining a full understanding of the extent of the gang problem in Bermuda. The Department of Court Services held gang supervision training, with the aim of a more collaborative and preventive response to gangs. The 200 attendees were from various ministries and departments, community groups and service organizations.[1]

55. The Ministry of Justice has endeavoured to provide assistance in combating the increase in violent crime by the establishment of a witness support unit, aimed at providing information and support to witnesses throughout the trial process.

56. The successful "Mirrors" programme, funded by the Ministry of Culture and Social Rehabilitation, which redirects at-risk youth towards a more productive lifestyle, is entering its fourth year. To date, five intensive residential courses have been completed by a total of 154 youth participants. During fiscal year 2010/11, the Mirrors programme will hold two more residential sessions and will be extended to two middle schools on the island.[1]

G. Environment

57. Responsibility for environmental issues in Bermuda falls to the Department of Environmental Protection. Its mandate is to protect Bermuda's environment through monitoring, regulation and enforcement, and to promote the sustainable use of the island's natural resources.

58. Electric power in Bermuda is provided by a single private entity, which relies exclusively on fossil fuels to generate electricity. According to the administering Power, in February 2009 the Minister of Energy, Telecommunications and E-Commerce released a policy consultation document on energy. This "Green Paper", together with the town-hall meetings that preceded and followed its publication, were designed to facilitate the debate and to provide an opportunity for the public to provide input into the development of a national energy policy. This policy would have as one of its key objectives the elimination of Bermuda's total reliance on imported fossil fuels. The Department of Energy is currently developing these policy proposals, which are due to be published during 2010. The energy White Paper will include, in addition to proposals for the adoption of alternate sources of energy, policies relating to conservation measures and efficiency guidelines. Proposals will also be presented for the development of a regulatory regime designed to manage the new environment, which will consist of renewable energy-generating facilities and new service providers.

VI. Military issues

59. According to the administering Power, Bermuda maintains a defence regiment of some 600 soldiers. While most are part-time, this figure includes some 140 "long-stay nucleus" and 30 full-time soldiers.[1] The adult male population is subject to conscription by ballot, involving just over three years of part-time liability for weekly drills, as well as a 15-day annual camp. All soldiers are paid for their military service.[1]

60. In the report of the United Kingdom Committee of Foreign Affairs, the Committee recommended that the Government of the United Kingdom should encourage the Government of Bermuda to move away from conscription and towards the professionalization of the Bermuda Regiment, with voluntary and paid elements. They also concluded that that could make serving in the Regiment more attractive, giving it the staffing resources required to expand into maritime duties. According to information received from the administering Power, clear missions, roles and specific tasks must be identified before the Regiment can be transformed into a "full-time larger force".[1]

VII. Relations with international organizations and partners

61. Bermuda is an associate member of the Caribbean Community (CARICOM). Information on United Nations system activities involving Bermuda, including on the applicability of international labour conventions and international labour recommendations, is contained in document E/2006/47. The Territory also participates in the Caribbean Conservation Corporation, the International Confederation of Free Trade Unions, the International Criminal Police Organization (INTERPOL) and the International Olympic Committee.

62. Bermuda is a member of the United Kingdom Overseas Territories. Upon the request of Bermuda, the Territory is not subject to the Overseas Association Decision implementing Part IV of the Treaty establishing the European Community. The arrangements with the European Union for association have never been applied to Bermuda, in accordance with the wishes of the Government of Bermuda. Bermuda is, however, entitled to participate in the partnership meetings involving British Overseas Countries and Territories.

VIII. Future status of the Territory

A. Position of the territorial Government

63. Developments regarding discussions on the future status of Bermuda are reflected in section II above.

B. Position of the administering Power

64. Information provided by the United Kingdom for inclusion in the report of the Secretary-General on the implementation of decolonization resolutions adopted since the declaration of the First and Second International Decades for the Eradication of Colonialism (A/64/70), inter alia stated that the policy of the United Kingdom towards the Overseas Territories rested on the basis that it was the people of each Territory who would determine whether they wished to stay linked to the United Kingdom. The United Kingdom had no intention of imposing independence against the will of the people concerned. Further, the statement referred to the suggestion by some commentators that the United Kingdom should agree to allow Territories the three status options set out in General Assembly resolution 1541 (XV) for removing Territories from the United Nations list, namely integration, independence or free association. According to the United Kingdom, its policy was

not to agree to integration, nor was there any indication that any of the Territories were seeking that option. Its position on independence had already been set out. The concept of free association, as defined by the General Assembly, would mean that the Territory itself would draw up its Constitution free from the involvement of the United Kingdom, which would nonetheless retain all responsibility for the Territory, but without the powers necessary to meet its responsibilities for the Territories. This was not a position the United Kingdom was willing to put itself in.

65. The United Kingdom further pointed out that General Assembly resolution 1541 (XV) was not legally binding and that the United Kingdom had not voted in favour of the resolution. The Government of the United Kingdom indicated that it considered the existence of the Special Committee and the list of Non-Self-Governing Territories to be outdated, and remained of the view that none of its Overseas Territories should remain on the list.

66. As reflected in meeting record (A/C.4/64/SR.2), in a statement made on 5 October 2009 before the Special Political and Decolonization Committee (Fourth Committee) during the sixty-fourth session of the General Assembly, the representative of the United Kingdom said, inter alia, that, where the people of any of its Overseas Territories clearly and constitutionally opted for independence, the United Kingdom would help them achieve it. Where instead a Territory wished to retain links, the United Kingdom would safeguard that Territory's future development and continued security, and would hold regular annual political consultations with it. Meanwhile, the respective territorial constitutions governed the relationship between the United Kingdom and its Overseas Territories and were regularly updated, carefully considering all proposals for constitutional change received from the Territories. A number of such new constitutions had come into force since 2006.

67. The United Kingdom stated that maintaining high standards of probity and governance was a cornerstone of British administration of the Territories. The Government of the United Kingdom was committed to allowing each Territory to run its own affairs responsibly as far as possible, but, when developments in a Territory gave cause for concern or a Territory failed to fulfil international obligations, the United Kingdom would not hesitate to raise the matter with the territorial Government and intervene when necessary.

68. Further, the Government of the United Kingdom continued to encourage all its Overseas Territories to meet internationally recognized Group of Twenty (G-20) standards to ensure sound financial regulation, resilient public finances and responsible debt management.

C. Action taken by the General Assembly

69. On 10 December 2009, the General Assembly adopted resolutions 64/104 A and B without a vote, based on the report of the Special Committee transmitted to the General Assembly (A/64/23) and its subsequent consideration by the Special Political and Decolonization Committee (Fourth Committee) (A/64/413). Section III of resolution 64/104 B concerns Bermuda. Under that section's operative paragraphs, the General Assembly:

1. *Stressed* the importance of the 2005 report of the Bermuda Independence Commission, which provided a thorough examination of the facts surrounding independence, and regretted that the plans for public meetings and the presentation of a Green Paper to the House of Assembly followed by a White Paper outlining the policy proposals for an independent Bermuda had so far not materialized;

2. *Requested* the administering Power to assist the Territory by facilitating its work concerning public educational outreach efforts, consistent with Article 73 *b* of the Charter of the United Nations and, in that regard, called upon the relevant United Nations organizations to provide assistance to the Territory, if requested.

United Nations A/AC.109/2010/7

General Assembly

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Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples

Montserrat

Working paper prepared by the Secretariat

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VII. Relations with international organizations and partners

VIII. Future status of the Territory

A. Position of the territorial Government

B. Position of the administering Power

C. Action taken by the General Assembly

I. General

1. Montserrat is a Non-Self-Governing Territory administered by the United Kingdom of Great Britain and Northern Ireland. The Territory is situated in the Leeward Islands in the eastern Caribbean, 43 kilometres south-west of Antigua and 64 kilometres north-west of Guadeloupe.

2. Montserrat is volcanic and very mountainous, covering an area of 103 square kilometres, with a rugged coastline. There are three mountain ranges: Silver Hills in the north, Centre Hills and the Soufrière Hills in the south. There are hot springs, ravines, black sand beaches and a white sand beach in the north. The vegetation is tropical.

3. In July 1995, the Soufrière Hills volcano, dormant for more than 400 years, erupted with devastating effects, causing the evacuation and relocation of about 70 per cent of the population. The effects of that eruption and subsequent lighter volcanic activity are still being strongly felt, as the Territory rebuilds the community in the unaffected northern part of the island. Montserrat's capital, Plymouth, was abandoned in 1997 after volcanic activity rendered it uninhabitable. A new urban centre is being developed at Little Bay in the north.

4. The population of the Territory, which reached a peak of 14,333 in 1946, fell after the devastating volcanic eruption in 1995. An estimated 8,000 refugees left the island following the resumption of volcanic activity in July 1995, some of whom have returned. The overall decline since 1995 in the population figures was attributed to a relocation programme instituted by the territorial and United Kingdom Governments. The highest proportion of emigrants was from those under 30 years of age. According to the administering Power, as at 1 June 2009, the population of the island was 4,886 (3,295 Montserratians and 1,591 non-Montserratians) compared to 4,493 in 2001, 10,639 in 1991 and 11,606 in 1980. During 2009, the territorial Government continued to review population, labour and immigration policies, with a view to encouraging population growth in the Territory.

5. The currency of Montserrat is the Eastern Caribbean dollar, which is aligned with the United States dollar at approximately EC$ 2.70 to US$ 1. Major trading partners are the United States of America, the United Kingdom, Japan, and Trinidad and Tobago.

II. Constitutional, political and legal issues

6. The basis of the relationship between the Government of the United Kingdom and its Non-Self-Governing Territories is set out in a White Paper entitled "Partnership for Progress and Prosperity: Britain and the Overseas Territories", published in March 1999.[1] The British Overseas Territories Act 2002 granted the right of British citizenship to "British Overseas Territory citizens".

Note: The information contained in the present working paper was derived from published sources, including those of the territorial Government, and from information transmitted to the Secretary-General by the administering Power under Article 73 *e* of the Charter of the United Nations.

[1] Submitted to the House of Commons on 17 March 1999 by the United Kingdom Secretary of State for Foreign and Commonwealth Affairs; reproduced in A/AC.109/1999/1 and Corr.1, annex I.

7. As previously reported, the Territory was named after a Spanish monastery by Christopher Columbus on his second voyage to the island in 1493. In 1632, the island became a British colony. Its first settlers were largely Irish. Sugar production dominated the island's economy during the seventeenth and eighteenth centuries. Slaves who worked the cotton and sugar plantations were unsuccessful in historic uprisings in the late 1700s. Slavery was abolished in 1834. Meanwhile, after two brief occupations by France, British rule resumed in 1783 and Montserrat became a British Crown Colony in 1871. From 1871 to 1958, Montserrat was administered as part of the Federal Colony of the Leeward Islands, and from 1958 to 1962, it formed part of the Federation of the West Indies. Following the dissolution of the Federation in 1962, Montserrat elected to retain its status as a Crown Colony.

8. Under the Montserrat Constitution Order 1989, which came into force in February 1990, Montserrat has a Governor appointed by the British monarch, an Executive Council, and a Legislative Council.

9. The current Governor of Montserrat, Peter Waterworth, took office in July 2007. The Governor has responsibility for internal security (including police), external affairs, defence, public service and offshore finance, including the Royal Montserrat Defence Force, which is headed by a captain. The territorial Government had asked the United Kingdom to support its request for the appointment of Montserrat's first indigenous Deputy Governor, and on 15 October 2009, Sarita Francis, a Montserratian career civil servant, was appointed Deputy Governor.[2] Under the Constitution, the British monarch reserves the power, with the advice of the Privy Council, to make laws for the peace, order and good government of Montserrat.

10. The Executive Council comprises four Ministers, as well as the Attorney General and a Financial Secretary. It is presided over by the Governor and has responsibility for the general control and direction of government.

11. The Legislative Council consists of nine members. All the members elected to the Council in September 2009 are male, although five female candidates ran in the elections. Elections are normally held in Montserrat every five years on the basis of universal adult suffrage. The last general elections were held on 8 September 2009 following the dissolution of the Executive Council and the Governor's call for new general elections two years ahead of schedule. Background to this development can be found in the previous working paper (A/AC.109/2009/6). The Movement for Change and Prosperity won the majority of seats in the Legislative Council and formed a Government headed by Chief Minister Reuben T. Meade. According to the administering Power, 3,516 voters were registered and 2,349 votes were cast: a 66.8 per cent voter turnout compared to 77 per cent in 2006 and 78 per cent in 2001. The next elections are due in 2014.

12. The law of Montserrat comprises English common law and locally enacted legislation. It is administered by a Magistrates Court and the Eastern Caribbean Supreme Court, based in Saint Lucia. The Eastern Caribbean Supreme Court (Court of Appeal) is an itinerant court established under the West Indies Associated States Supreme Court Order No. 223 of 1967, whose sittings rotate among the Court's nine member States of the Court, including Montserrat.[3] Cases handled by the Supreme

[2] Information provided by the administering Power on 29 December 2009.

[3] See http://eccourts.org/index.html.

Court have recourse of final appeal to the Judicial Committee of the United Kingdom Privy Council. A new Commercial Court was opened in October 2009 in the British Virgin Islands, which serves the Eastern Caribbean jurisdictions, including Montserrat.

13. As previously reported, a Constitutional Review Commission was set up in 2002 under the chairmanship of Sir Howard Fergus. In February 2003, the Governor was presented with the Commission's report, including recommendations for a number of changes to the Constitution. For instance, the report concluded that the proposed change from the imposition of the candidate by the United Kingdom to a more cooperative approach in choosing a Governor would have positive symbolic significance. That report was debated in the Legislative Council in April 2005.

14. The first round of talks between the territorial Government and the Foreign and Commonwealth Office took place in Montserrat in September 2005. A second round of discussions between Montserrat, involving all Legislative Council members, and a United Kingdom Government team took place in February 2006, followed by additional formal and informal talks in 2006, 2007 and 2008. According to the administering Power, the new Government is considering its approach to Montserrat's constitutional review.

15. Earlier in 2009, information provided by the United Kingdom for inclusion in the report of the Secretary-General entitled "Implementation of decolonization resolutions adopted since the declaration of the First and Second International Decades for the Eradication of Colonialism" (A/64/70) concluded that "work on the redevelopment of Montserrat had by early 2009 taken priority over the constitutional review talks".

16. At the Caribbean regional seminar convened under the auspices of the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples in Frigate Bay, Saint Kitts and Nevis, from 12 to 14 May 2009, the Chief Minister of Montserrat stressed that the territorial Government should explore the possibility of free association with the United Kingdom. The Territory expected the United Kingdom to prepare Montserrat for eventual self-determination, in accordance with the relevant United Nations resolutions. Meanwhile, the territorial Government was working on developing a modernized constitution that was consistent with a "pre-independence" document. The full text of the Chief Minister's statement can be found on the United Nations website on decolonization.

17. On 9 December 2009, the eleventh meeting of the Overseas Territories Consultative Council was held in London. According to the administering Power, the overseas territory leaders requested that a forum be held the day before the meeting to review the aforementioned 1999 White Paper entitled "Partnership for Progress and Prosperity: Britain and the Overseas Territories", which established the principles that have guided the relationship between the United Kingdom and territories since 1999. The forum was the first stage of a consultation process on the future of that relationship. At the Consultative Council meeting, the United Kingdom and the Non-Self-Governing Territories represented, including Montserrat, agreed, inter alia, to continue their discussions on the relationship between the United Kingdom and the overseas territories.

III. Budget

18. The Montserrat public sector continues to be dependent on budgetary aid from the administering Power and other sources.[2] In his budget speech on 26 March 2009, the Chief Minister stated that the total budget of Montserrat for the 2009/10 financial year was approximately EC$ 95 million, allocated mainly to the priorities of ministries and departments. For example, the Ministry of Communication and Works would receive approximately EC$ 11 million, the Ministry of Agriculture, Lands, Housing and the Environment EC$ 6 million and the Disaster Management Coordination Agency EC$ 5 million. An overall reduction in annual funding of about EC$ 4 million reflected issues resulting from the general global economic and financial crisis. The total amount available for development purposes in the 2009/10 cycle was approximately EC$ 43 million.

19. As previously reported, for the period 2008-2010, the United Kingdom Department for International Development made an allocation of 58 million pounds sterling available to Montserrat. According to the territorial Government's 2009 budget statement, the development budget would be further funded by such entities as the European Union, the Caribbean Development Bank and the Government of Trinidad and Tobago through the Caribbean Community (CARICOM) Petroleum Stabilization Fund.

20. According to the territorial Government, individual residents are taxed on their worldwide income from all sources. Tax is also levied on the chargeable income paid by any incorporated company, building society or body of persons. Companies pay a 30 per cent tax on profits. At the same time, there is no capital gains tax in Montserrat. In December 2009, the Governments of the United Kingdom and Montserrat signed a tax agreement to facilitate the exchange of tax information and to avoid double taxation on income.

IV. Volcanic activity and the environment

21. Following the eruption of the volcano on Montserrat in 1995 after centuries of dormancy, in October 1996 the Territory was successively divided to create an exclusion zone comprising roughly the southern two thirds of the island. In the latter part of 2007, there remained a large mass of material on the dome, and scientists believed this to be a sign of a pause rather than a complete cessation of volcanic activity. Volcanic activity recommenced in the second half of 2008, resulting in new evacuation from the same area on 2 January 2009. The Montserrat Volcano Observatory website contains information on hazard levels and a map of the various zones. According to the administering Power, the evacuation lasted four days, after which activity decreased. In October 2009, after a period of quiet, the volcano began to emit ash once again, which was deposited over a wide area of the island. Reports in the media indicated that shifting winds had blown ash into the safe zone, requiring some residents to evacuate their homes. In early 2010, the Observatory confirmed large pyroclastic flows emanating from the volcano. At the same time, when the level of volcanic activity is low, such activity produces ash, sand, pumice and aggregates that can be mined and collected for domestic use and export.

22. According to the administering Power, in 2009 the territorial Government continued to develop a national energy policy; a biodiversity research protocol for

the island; a monitoring programme for flora, forest birds, reptiles and amphibians; a climate change adaptation strategy and public education and outreach programme; standards for the Territory's ecotourism product; and a strategy for the management of invasive species. It also continued to pursue the development of alternative sources of energy, including geothermal, wind and solar energy. The 2009 hurricane season brought no tropical storm conditions to Montserrat.

V. Economic conditions

A. General

23. According to the territorial Government's 2009 budget statement, the economy experienced a positive growth rate in 2008. At the end of 2008, economic growth expanded by approximately 3.8 per cent, driven by the construction sector. Other contributors to gross domestic product (GDP) growth were tourism, mining and quarrying, wholesale and retail trade and transportation. For example, the mining and quarrying sector improved steadily at 3 per cent of GDP, with a 14.5 per cent increase in exports in 2008. Wholesale and retail trades and the transport sectors recorded increases of 22 per cent and 6 per cent respectively.

24. According to the administering Power, the GDP of Montserrat reached approximately EC$ 123 million and the per capita GDP was EC$ 20,598 in 2007, the most recent figures available. The Statistics Department of the Government of Montserrat predicted that economic growth would be approximately 3.8 per cent in 2009. The economy of Montserrat continued to be dominated by public sector-led investments and projects. Volcanic activity and hurricane damage, the resultant movement of population and commercial centres and the attendant socio-economic difficulties continued to create tremendous difficulties for Montserrat.

25. The economy has approximately 200 business establishments, large and small, in its private sector. Just over 25 per cent of business is involved with the provision of financial, professional, personal and other household services. The Montserrat Development Corporation, a limited liability company owned by the territorial Government, continues to establish local and international business partnerships with the public and private sectors to stimulate economic growth.

B. Agriculture

26. As a result of the ongoing volcanic crisis, the majority of fertile agricultural lands, pasture and fishing areas are either restricted or inaccessible. According to the 2009 budget statement, GDP decreased in areas of key sectors such as fishing and livestock production in 2008.

27. According to the administering Power, in 2009 the Montserrat Ministry of Agriculture advanced an import substitution programme to reduce reliance on imported agricultural products. The agriculture feeder roads built earlier and the small business grants given to young farmers in 2007-2008, financed by the CARICOM Petroleum Stabilization Fund, significantly increased both the area cultivated and the productivity of farmers working in the Duck Pond, Dick Hill and Blakes Mountain areas. These activities provided a foundation for the establishment

of a food-processing laboratory, which is now in operation; this is expected to improve the shelf life of products produced locally.

C. Financial services

28. Two commercial entities, the Bank of Montserrat and the Royal Bank of Canada, as well as several offshore banks, continue to operate in Montserrat, providing a range of banking facilities. According to the territorial Government, Montserrat is in the process of updating its legislation to meet international standards relating to offshore banking facilities. Montserrat is a member of the Eastern Caribbean Central Bank, which is based in the neighbouring island of Saint Kitts and acts as central bank for Montserrat. Among other functions, the Bank monitors the commercial banks' reserves. Montserrat is part of the Eastern Caribbean Stock Exchange. Montserrat is also a member of the Caribbean Financial Action Task Force, the body that monitors anti-money-laundering activities and the countering of financing for terrorism in the region. According to the 2009 budget statement, the net foreign assets of commercial banking grew by 7.2 per cent, largely reflecting an increase in assets held at institutions in the context of the regional currency union.

D. Tourism

29. The redevelopment of the tourism industry continues to be a priority of the territorial Government. Once the most significant contributor to the local economy, the tourism industry was a major casualty of the island's ongoing volcanic activity. The Montserrat Tourist Board statistics indicate that between January and November 2009, approximately 9,400 tourist arrivals were registered in Montserrat. As reflected in the 2009 budget statement, tourism saw a 1.2 per cent increase in visitors in 2008. Excursionist and yacht arrivals showed strong increases, recording improvements of approximately 5 per cent and 36 per cent respectively. A total of 354 yachts arrived in Montserrat in 2008, bringing 1,840 excursionists to the island. Stay-over and cruise ship arrivals declined by more than 5 per cent.

30. As previously reported, Montserrat is trying gradually to turn the fact that it has an active volcano into a selling point, inter alia, by promoting adventure tourism. For instance, the resurgence of underwater life caused by the volcano has enabled the tourist sector to promote sport fishing and diving.[2]

31. According to the administering Power, a ferry service between Antigua and Montserrat operated in December 2008 and 2009, the peak month for tourism arrivals on the island. A new full-time ferry service, to be jointly operated by the Government of Montserrat, the Government of Antigua and the Barbuda Island Council, was expected to commence in January 2010. During 2008 and 2009, scheduled air services were available through the Saint Martin-based airline Winair, which operates several daily flights from Antigua. In addition, air charters can be booked on fixed-wing aircraft operating from a Montserrat company. As reflected in media reports, the same locally owned company also commenced scheduled flights in January 2010 between Montserrat and Antigua.

E. Construction and housing

32. During 2008/09, the construction sector, a major contributor to economic activity in Montserrat, resumed growth as a result of the construction of private homes and businesses and a range of public projects. In early 2010, the territorial Government awarded a commission to a private company from the United Kingdom to develop and design a master plan for the island's new capital.

33. Two public sector projects — the housing development project in Look Out (funded by the European Union and the public market) and the Little Bay development project (a four-phase project to be completed over a 10-year period with assistance from the United Kingdom and the European Union) — continued in 2009, as did the housing assistance programme to remove people from emergency shelters, house vulnerable people within the community and assist people to qualify for mortgages from financial institutions. As previously reported, according to the administering Power, housing remains a major problem for people who have lost their homes or have no access to properties that have been evacuated in Plymouth and its environs.

F. Utilities and communication

34. The Montserrat Utilities Limited is responsible for the distribution of water and electricity throughout the inhabited portion of the Territory. According to the administering Power, the entire population has access to Montserrat's plentiful supply of good potable water (about 98 per cent of residents are linked up to the water system). The water section of the Montserrat Utilities Limited takes water from springs high in the mountains, treats it lightly and then stores and distributes it to customers through its network of pipes and reservoirs. It also has responsibility for sewage treatment in some areas, notably Look Out and Davy Hill.

35. With assistance from the Caribbean Electric Utility Service Corporation based in Saint Lucia, the electrical section of the Montserrat Utilities Limited reportedly began the process of developing a geographical information system in 2009 to better manage its infrastructure in the Territory, as unscheduled interruptions in the power supply continued to be a problem. According to the service company, increased ash falling on the power lines in inhabited areas was the primary cause of the power outages towards the end of 2009.

36. With regard to communications, in the context of efforts towards the liberalization of the sector, the territorial Government has held meetings with Cable & Wireless, trading as Landline Internet Mobile Entertainment (LIME), and has had expressions of interest and proposals from other providers, including Digicel.[7] According to the administering Power, e-mail is widely used, making communications relatively easy, and digital subscriber lines have been introduced. There is a regular mail service between Montserrat and all countries.

37. As previously reported, in 2008 the territorial Government announced that ECS 1.5 million would be allocated to build a two-storey building for Montserrat's ZJB public radio; according to information provided by the administering Power, in 2009 the building was at the design stage.

VI. Social conditions

A. General

38. The volcanic crisis has had a profound effect on traditional social structures and support systems, with many families and communities split up and relocated to various parts of the world. As previously reported, in 2008 Montserrat's social security programme was being reformed in order to achieve sustainability in the longer term. Anticipated changes included raising the retirement age, modifying the short- and long-term benefit accrual rates and restructuring the various benefits to reflect local circumstances. According to the administering Power, this process continued in 2009.

39. The territorial Government's social welfare services function focuses on the needs of the most vulnerable persons, including the elderly, the mentally challenged, the physically challenged, children and low-income households. Social welfare services in Montserrat include monthly financial assistance, rental assistance and one-time assistance for items such as food, school lunch, school supplies, utilities and essential household equipment, as well as burials. All social welfare assistance cases are "means-tested" to determine the individual's or household's financial situation and whether they qualify for assistance or are able to help themselves.

B. Labour

40. According to the administering Power, the working population of Montserrat stands at about 2,500, comprising approximately 40 per cent nationals and 60 per cent non-nationals. As previously reported, Montserrat maintains a positive industrial relations climate, within which every effort is made to ensure that workers, unions, employees and other stakeholders in the economy work together to achieve national development goals. Labour relations are governed by the Employment Act (revised 2002), under which the Labour Department continues to provide mediation and conciliation services, with the Labour Tribunal settling disputes.

41. The continuing shortage of skilled labour is being addressed by providing relocation incentives to Montserratians and granting work permits to non-nationals. The granting of work permits is covered under the Immigration Act 2002. According to the administering Power, the territorial Government has continued to facilitate the active recruitment of skilled labour, both professional and otherwise, to meet demand.

C. Education and culture

42. The Montserrat Department of Education is responsible for the development and provision of educational and training programmes intended to enable its citizens to acquire skills that can contribute positively to the future of the Territory. Estimated expenditure on education was budgeted in 2009 at approximately EC$ 8 million, according to the territorial Government's budget statement. The Territory continued to implement the Education Development Plan covering the period 2004-2009.

43. Montserrat has educational infrastructure and services that provide 100 per cent access to primary and secondary education. The Montserrat education system is broadly based on the British system. The Department of Education is structured into several specialized organizational segments: Early Childhood Education, Primary Education, Secondary Education, Post-Secondary Education, Special Needs, Teacher Training and Education Support Services. There are several Government day-care facilities and nursery schools, and one privately owned early childhood facility. According to the administering Power, two of the four primary schools are privately owned. The Government-owned Montserrat Secondary School is the only secondary school. The Montserrat Community College in Salem offers sixth form programmes, nursing education and some technical skills courses.

44. As previously reported, efforts began in 2008 towards the construction of a national library and archives, with the intention of completing the facilities by 2010. In October 2009, the territorial Government decided that all responsibilities for cultural development should be given to the Montserrat Tourist Board. Later in the year, Montserrat held its first literary festival.

D. Health

45. The Ministry of Health of the Territory is responsible for providing primary and secondary health services to Montserrat, along with health-related policy advice to the territorial Government. According to the administering Power, estimates made in 2008 put life expectancy in the Territory at 72.6 years for the whole population — approximately 74.7 years for males and 70.4 years for females.

46. The estimated expenditure of the Ministry of Health was budgeted in 2009 at approximately EC$ 15 million. According to the administering Power, during 2009, the territorial Government continued to provide medical assistance on- and off-island for people in need, including foster children, covering areas such as general medical care, surgical care, diagnostic testing, eye and ear care and medication. It continued to offer free dental clinical emergency services for school-age children, the elderly, pregnant women and certain Government staff.

47. According to the Ministry of Health and as reflected in media reports, by December 2009 there were 21 confirmed cases of influenza A (H1N1) in Montserrat. Since the first reported case in November, health-care centres and the Glendon Hospital have seen a steady increase in the number of patients, especially children exhibiting mild symptoms.

48. Montserrat has health facilities that include the 30-bed Glendon Hospital in St. Johns in the north, which is able to cover all routine health issues, X-rays and minor operations, as well as several primary care clinics. Arrangements are in place for emergency medical evacuation to Antigua and Guadeloupe. As previously reported, in 2008, the Ministry of Health of the Territory began work on the development of a new and improved hospital facility. According to the administering Power, in 2009, the Ministry of Health completed work on the development of new and improved hospital support facilities.

E. Crime and public safety

49. In 2009, the territorial Government allocated approximately EC$ 9.4 million to fund the judiciary and internal security services (police, legal, magistracy, supreme court), as reflected in information provided by the administering Power.

50. With budget allocations of approximately EC$ 6.7 million approved by the territorial Government in 2009, the Royal Montserrat Police Force has a fully functioning police headquarters within the Government headquarters complex at Brades, as well as two substations and a marine unit. As previously reported, a five-year strategy of the Royal Montserrat Police Force places emphasis on neighbourhood policing, intelligence-led policing, crime reduction and prevention and partnership in the criminal justice system.

51. Under the Parole of Prisoners Act 2004, a Parole Board reviews cases for release into the community on licence, and makes recommendations to the Governor. Criminal offences are dealt with under the Penal Code of Montserrat, revised in 2002. According to the administering Power, in 2009 the Parole Board members underwent intensive training to better understand their role.

52. Concerns about the rise in youth crime and lack of discipline remain constant. In 2009, as reflected in media reports, the territorial Government wished to seek the United Kingdom's help in dealing with the issue of offenders abroad being deported back to the Territory, a practice that posed a challenge in such a small population.

VII. Relations with international organizations and partners

53. Montserrat is an associate member of the Economic Commission for Latin America and the Caribbean and its subsidiary bodies. The Territory receives some support from the United Nations Development Programme.

54. Montserrat is a founding member of both CARICOM and the Organization of Eastern Caribbean States (OECS) and a member of the institutions associated with those organizations, including the University of the West Indies, the Caribbean Development Bank, the Eastern Caribbean Central Bank and the Eastern Caribbean Supreme Court. More information on recent developments with regard to CARICOM can be found in the previous working paper prepared by the Secretariat (A/AC.109/2009/6).

55. In 2009, Montserrat joined the consultations of the OECS member States on a proposed economic union, which was established on 29 December 2009 as the OECS Economic Union. At a meeting held in May 2009, Montserrat contributed to exploring the development of OECS audio-visual industries and in January 2010, the Government approved an OECS stabilization and growth programme for the Territory to respond to the global financial and economic crisis.

56. As a Non-Self-Governing Territory of the United Kingdom, Montserrat is associated with the European Union but is not a part of it.

VIII. Future status of the Territory

A. Position of the territorial Government

57. The position of the Government of Montserrat on constitutional reform is set out in section II above, which deals with the ongoing constitutional negotiations between Montserrat and the Government of the United Kingdom.

B. Position of the administering Power

58. Information provided by the United Kingdom for inclusion in the aforementioned report of the Secretary-General (A/64/70) states, inter alia, that the United Kingdom's policy towards the Overseas Territories rested on the basis that it is the people of each Territory who determine whether they wish to stay linked to the United Kingdom or not and that the United Kingdom had no intention of imposing independence against the will of the people concerned. The statement also referred to the suggestion by some commentators that the United Kingdom should agree to allow Territories the three status options set out in General Assembly resolution 1541 (XV) for removing Territories from the United Nations list of Non-Self-Governing Territories, namely, integration, independence or free association. According to the United Kingdom, its policy was not to agree to integration, nor was there any indication that any of the Territories were seeking that option. Its position on independence had already been set out. The concept of free association, as defined by the General Assembly, would mean that the Territory itself would draw up its Constitution free from the involvement of the United Kingdom, which would nonetheless retain all responsibility for the Territory, without the powers necessary to meet its responsibilities for the Territories. That was not a position the United Kingdom was willing to put itself in.

59. The United Kingdom further pointed out that resolution 1541 (XV) was not legally binding and that it had not voted in favour of the resolution. It considered the existence of the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples and the list of Non-Self-Governing Territories outdated and remained of the view that none of its Overseas Territories should remain on the list.

60. As reflected in a statement made on 5 October 2009 to the Special Political and Decolonization Committee (Fourth Committee) of the General Assembly (see A/C.4/64/SR.2), the representative of the United Kingdom said, inter alia, that where the people of any of its Overseas Territories clearly and constitutionally opted for independence, the United Kingdom would help them achieve it. Where instead a Territory wished to retain links, the United Kingdom would safeguard that Territory's future development and continued security and would hold regular annual political consultations with it. Meanwhile, the respective territorial constitutions governed the relationship between the United Kingdom and its Overseas Territories and were regularly updated, following careful consideration of all proposals for constitutional change received from the Territories. A number of such new constitutions had come into force since 2006.

61. The United Kingdom stated that maintaining high standards of probity and governance was a cornerstone of British administration of the Territories. The

United Kingdom Government was committed to allowing each Territory to run its own affairs responsibly as far as possible, but when developments in a Territory gave cause for concern or a Territory failed to fulfil international obligations, the United Kingdom would not hesitate to raise the matter with the territorial Government and intervene where necessary.

62. Further, the British Government continued to encourage all its Overseas Territories to meet internationally recognized Group of 20 standards to ensure sound financial regulation, resilient public finances and responsible debt management.

C. Action taken by the General Assembly

63. On 10 December 2009, the General Assembly adopted, without a vote, resolutions 64/104 A and B, based on the report of the Special Committee transmitted to the General Assembly (A/64/23) and its subsequent consideration by the Special Political and Decolonization Committee (Fourth Committee). Section VII of resolution 64/104 B concerns Montserrat. Under that section's operative paragraphs, the General Assembly:

> "1. *Welcomes* the efforts of the territorial Government to continue to negotiate improvements to the Constitution of the Territory so as to preserve its ability to move towards full self-government, notes the efforts of the administering Power to support the redevelopment of the Territory, and encourages them to mutually reinforce their efforts;
>
> 2. *Requests* the administering Power to assist the Territory by facilitating its work concerning public outreach efforts, consistent with Article 73 *b* of the Charter of the United Nations, and, in this regard, calls upon the relevant United Nations organizations to provide assistance to the Territory, if requested;
>
> 3. *Calls upon* the administering Power, the specialized agencies and other organizations of the United Nations system, as well as regional and other organizations, to continue to provide assistance to the Territory in alleviating the consequences of the volcanic eruption."